

SUM-100

# SUMMONS (CITACION JUDICIAL)

## NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

The State of California and Does 1 to 100 *INCLUSIVE*

## YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

Monica Araiza *AND DOES 1 to 5*

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

ELECTRONICALLY FILED  
Superior Court of California  
County of Santa Barbara  
Darrel E. Parker, Executive Officer  
3/12/2021 3:19 PM  
By: Keslie Stivers, Deputy

Officer

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. *[AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.]*

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es): Superior Court of California, County Of Santa Barbara, 312-C East Cook St, Santa Maria, CA 93456-5369

CASE NUMBER: (Número del Caso):  
21CV01049

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Law Offices of Isaac Toveg, Isaac Toveg, SBN : 269729, 2600 W Olive Ave 5th Floor, Burbank Ca 91505, Phone 818-333-5202

DATE: ~~March 09, 2021~~ 03/12/2021  
(Fecha)

Clerk, by /s/ Keslie Stivers, Deputy  
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]



### NOTICE TO THE PERSON SERVED: You are served

- ☒ as an individual defendant.
- ☐ as the person sued under the fictitious name of (specify):
- ☐ on behalf of (specify):  
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)  
☐ other (specify):
- ☐ by personal delivery on (date):

Page 1 of 1

Form Adopted for Mandatory Use  
Judicial Council of California  
SUM-100 [Rev. July 1, 2009]

SUMMONS

Code of Civil Procedure §§ 412.20, 465  
[www.courts.ca.gov](http://www.courts.ca.gov)

For your protection and privacy, please press the Clear This Form button after you have printed the form.

Print this form

Save this form

Clear this form

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Law Offices Of Isaac Toveg, Isaac toveg SBN 269729 2600 W Olive Ave, 5th floor Burbank CA 91505  TELEPHONE NO.: 818-333-5202 FAX NO. (Optional): ATTORNEY FOR (Name): Monica Araiza		<b>FOR COURT USE ONLY</b> <b>ELECTRONICALLY FILED</b> Superior Court of California County of Santa Barbara Darrel E. Parker, Executive Officer 3/15/2021 2:55 PM By: Sharon Leyden, Deputy
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Barbara</b> STREET ADDRESS: 312- C East Cook Street MAILING ADDRESS: 312 - C East Cook Street CITY AND ZIP CODE: Santa Maria CA 93456-5369 BRANCH NAME:		
CASE NAME: Araiza Vs The State of California and Does 1 to 100		
<b>CIVIL CASE COVER SHEET</b> <input checked="" type="checkbox"/> <b>Unlimited</b> (Amount demanded exceeds \$25,000)	<input type="checkbox"/> <b>Limited</b> (Amount demanded is \$25,000)	<b>Complex Case Designation</b> <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
		CASE NUMBER: 21CV01049  JUDGE: DEPT.:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:		
<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input checked="" type="checkbox"/> Other PI/PD/WD (23) <b>Non-PI/PD/WD (Other) Tort</b> <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) <b>Employment</b> <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<b>Contract</b> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) <b>Real Property</b> <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<b>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</b> <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20) <b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) <b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- a. ☐ Large number of separately represented parties d. ☐ Large number of witnesses
- b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- c. ☐ Substantial amount of documentary evidence f. ☐ Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): Three
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: March 09, 2021

Isaac Toveg

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

**INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET****CM-010**

**To Plaintiffs and Others Filing First Papers.** If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

**To Parties in Rule 3.740 Collections Cases.** A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

**To Parties in Complex Cases.** In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

**CASE TYPES AND EXAMPLES****Auto Tort**

Auto (22)—Personal Injury/Property Damage/Wrongful Death  
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

**Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort**

Asbestos (04)  
Asbestos Property Damage  
Asbestos Personal Injury/Wrongful Death  
Product Liability (*not asbestos or toxic/environmental*) (24)  
Medical Malpractice (45)  
Medical Malpractice—Physicians & Surgeons  
Other Professional Health Care Malpractice  
Other PI/PD/WD (23)  
Premises Liability (e.g., slip and fall)  
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)  
Intentional Infliction of Emotional Distress  
Negligent Infliction of Emotional Distress  
Other PI/PD/WD

**Non-PI/PD/WD (Other) Tort**

Business Tort/Unfair Business Practice (07)  
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)  
Defamation (e.g., slander, libel) (13)  
Fraud (16)  
Intellectual Property (19)  
Professional Negligence (25)  
Legal Malpractice  
Other Professional Malpractice (*not medical or legal*)  
Other Non-PI/PD/WD Tort (35)

**Employment**

Wrongful Termination (36)  
Other Employment (15)

**Contract**

Breach of Contract/Warranty (06)  
Breach of Rental/Lease  
Contract (*not unlawful detainer or wrongful eviction*)  
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)  
Negligent Breach of Contract/Warranty  
Other Breach of Contract/Warranty  
Collections (e.g., money owed, open book accounts) (09)  
Collection Case—Seller Plaintiff  
Other Promissory Note/Collections Case  
Insurance Coverage (*not provisionally complex*) (18)  
Auto Subrogation  
Other Coverage  
Other Contract (37)  
Contractual Fraud  
Other Contract Dispute

**Real Property**

Eminent Domain/Inverse Condemnation (14)  
Wrongful Eviction (33)  
Other Real Property (e.g., quiet title) (26)  
Writ of Possession of Real Property  
Mortgage Foreclosure  
Quiet Title  
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

**Unlawful Detainer**

Commercial (31)  
Residential (32)  
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

**Judicial Review**

Asset Forfeiture (05)  
Petition Re: Arbitration Award (11)  
Writ of Mandate (02)  
Writ—Administrative Mandamus  
Writ—Mandamus on Limited Court Case Matter  
Writ—Other Limited Court Case Review  
Other Judicial Review (39)  
Review of Health Officer Order  
Notice of Appeal—Labor Commissioner Appeals

**Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)**

Antitrust/Trade Regulation (03)  
Construction Defect (10)  
Claims Involving Mass Tort (40)  
Securities Litigation (28)  
Environmental/Toxic Tort (30)  
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

**Enforcement of Judgment**

Enforcement of Judgment (20)  
Abstract of Judgment (Out of County)  
Confession of Judgment (*non-domestic relations*)  
Sister State Judgment  
Administrative Agency Award (*not unpaid taxes*)  
Petition/Certification of Entry of Judgment on Unpaid Taxes  
Other Enforcement of Judgment Case

**Miscellaneous Civil Complaint**

RICO (27)  
Other Complaint (*not specified above*) (42)  
Declaratory Relief Only  
Injunctive Relief Only (*non-harassment*)  
Mechanics Lien  
Other Commercial Complaint Case (*non-tort/non-complex*)  
Other Civil Complaint (*non-tort/non-complex*)

**Miscellaneous Civil Petition**

Partnership and Corporate Governance (21)  
Other Petition (*not specified above*) (43)  
Civil Harassment  
Workplace Violence  
Elder/Dependent Adult Abuse  
Election Contest  
Petition for Name Change  
Petition for Relief From Late Claim  
Other Civil Petition

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA BARBARA</b> STREET ADDRESS: 312-C East Cook Street CITY AND ZIP CODE: Santa Maria CA 93454 BRANCH NAME: Cook	FOR COURT USE ONLY <b>FILED</b> SUPERIOR COURT of CALIFORNIA COUNTY of SANTA BARBARA <b>03/18/2021</b> Darrel E. Parker, Executive Officer BY <u>Navarro, Isabel</u> Deputy Clerk
CAPTION: <b>Monica Araiza vs The State of California</b>	
<b>ORDER AND NOTICE OF CASE ASSIGNMENT;          NOTICE OF CASE MANAGEMENT CONFERENCE</b>	CASE NUMBER: <b>21CV01049</b>

The above case is hereby assigned to Judge **Timothy J Staffel** for ALL purposes, including trial. All future matters, including ex-parte matters, are to be scheduled with the assigned judge. Counsel shall include the name of the assigned judge in the caption of every document filed with the court. The above-entitled case is hereby ordered set for:

**Case Management Conference on 07/13/2021 at 8:30 AM in SM Dept 3 at the court address above.**

PLAINTIFF SHALL GIVE NOTICE of this assignment to ALL parties brought into the case, including but not limited to defendants, cross-defendants and intervenors. A Proof of Service of this ORDER & NOTICE OF CASE ASSIGNMENT is to be filed with the Court within five (5) working days after service. Failure to give notice and file proof thereof or failure to appear may result in the imposition of sanctions. Pursuant to California Rule of Court 3.725, no later than fifteen (15) calendar days before the date set for the Case Management Conference, each party must file a Case Management Statement (Judicial Council form CM110). In lieu of each party filing a separate Case Management Statement, any two or more parties may file a joint statement.

At the Court's discretion counsel, parties and insurance representatives (if any) with full settlement authority may be required to attend a CADRe Information Meeting within ten (10) days of the Conference date.

Dated: 3/18/2021



Gustavo E Lavayen  
Judge of the Superior Court

#### CLERK'S CERTIFICATE OF MAILING

I certify that I am not a party to this action and that a true copy of the foregoing was mailed first class, postage prepaid, in a sealed envelope addressed as shown, and that the mailing of the foregoing and execution of this certificate occurred at (place): Santa Maria, California on: 03/18/21.

Isaac Toveg  
2600 W Olive Ave 5th Floor  
Burbank CA 91505

Darrel E. Parker, Executive Officer

By I. Navarro Deputy Clerk

ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME AND ADDRESS): Law Offices Of Isaac Toveg Isaac Toveg SBN 269729 2600 W Olive Ave, 5th Floor Burbank CA 91505		TELEPHONE NO.: 818-333-5202	FOR COURT USE ONLY  ELECTRONICALLY FILED Superior Court of California County of Santa Barbara Darrel E. Parker, Executive Officer 3/12/2021 3:19 PM By: Keslie Stivers, Deputy
ATTORNEY FOR (NAME): Plaintiff Monica Araiza			
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA BARBARA</b> <input type="checkbox"/> Santa Barbara-Anacapa <input checked="" type="checkbox"/> Santa Maria-Cook <input type="checkbox"/> Lompoc Division 1100 Anacapa Street      312-C East Cook Street    115 Civic Center Plaza Santa Barbara, CA 93101    Santa Maria, CA 93454    Lompoc, CA 93436			
PLAINTIFF: Monica Araiza  DEFENDANT: The State of California and Does 1 to 100 <i>INCLUSIVE</i>			
<b>CIVIL CASE COVER SHEET ADDENDUM</b>			CASE NUMBER: 21CV01049

Santa Barbara County Superior Court Local Rule, rule 201 divides Santa Barbara County geographically into two separate regions referred to as "South County" and "North County," the boundaries of which are more particularly defined in rule 201. "South County" includes the cities of Carpinteria, Santa Barbara, and Goleta; "North County" includes the cities of Santa Maria, Lompoc, Buellton and Solvang. A map depicting this geographical division is contained in Appendix 1 to the local rules.

Local Rule 203 provides: "When, under California law, 'North County' would be a 'proper county' for venue purposes, all filings for such matters shall be in the appropriate division of the Clerk's office in North County. All other filings shall be made in the Clerk's office in the appropriate division of the Court in South County. The title of the Court required to be placed on the first page of documents pursuant to CRC 2.111 includes the name of the appropriate Court division."

A plaintiff filing a new complaint or petition is required by Local Rule 1310 to complete and file this Civil Case Cover Sheet Addendum to state the basis for filing in North County or South County.

The undersigned represents to the Court:

This action is filed in ☒ North County ☐ South County because venue is proper in this region for the following reason(s):


☐ A defendant resides or has its principal place of business in this region at: \_\_\_\_\_

☒ The personal injury, damage to property, or breach of contract that is claimed in the complaint occurred in this region at: State Route 1 North of Jalama Rd. 0.5 MILE SOUTH OF SANTA ROSA RD.

☐ There is a related case filed with the court in this region (e.g., the related personal injury action to a petition to transfer structured settlement payments) [identify case, including case number]: \_\_\_\_\_

☐ Venue is otherwise proper in this region because [explain]: \_\_\_\_\_

Dated: 3/09/2021

  
Signature of Plaintiff or Plaintiff's Counsel



1 Law Offices Of Isaac Toveg  
 2 Isaac Toveg SBN 269729  
 3 2600 W Olive Ave 5<sup>th</sup> Floor  
 4 Burbank CA 91505  
 5 818-333-5202  
 6 Isaactoveg@aol.com

ELECTRONICALLY FILED  
 Superior Court of California  
 County of Santa Barbara  
 Darrel E. Parker, Executive Officer  
 3/12/2021 3:19 PM  
 By: Keslie Stivers, Deputy

7 SUPERIOR COURT OF CALIFORNIA

8 COUNTY OF SANTA BARBARA

9 MONICA ARAIZA AND DOES 1 TO 5,

10 Plaintiff,

11 vs.

12 THE STATE OF CALIFORNIA, AND DOES  
 13 1 TO 100 INCLUSIVE

14 Defendant

Case No.: 21CV01049

**COMPLAINT FOR DAMAGES FOR:**

**1. STATUTORY LIABILITY/  
 DANGEROUS CONDITION OF PUBLIC  
 PROPERTY**

**2. NEGLIGENCE**

**3. WRONGFUL DEATH**

**DEMAND FOR JURY TRIAL**

18 Plaintiff, Monica Araiza and Does 1 to 5, files her Complaint against Defendant the State of  
 19 California and does 1 to 100 Inclusive, alleging the following:

**THE PARTIES**

21 1.. Plaintiff, Monica Araiza ("Plaintiff") is and at all times relevant hereto was, a resident in  
 22 the city of Lemon Grove, California .

23 2. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned herein  
 24 defendant State of CALIFORNIA (the State") and does 1 to 100 was and is a public entity  
 25 authorized to conduct business, including supervising and administering roads, roadways,  
 26

27 traffic conditions, intersections, intersection controls and all other highway and roadway

28 COMPLAINT FOR DAMAGES FOR: 1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF  
 PUBLIC PROPERTY 2. NEGLIGENCE 3. WRONGFUL DEATH DEMAND FOR JURY TRIAL - 1

1 issues within the State of California. This includes, but is not limited to, control of the State  
 2 Route 1 Road approximately 0.5 miles south of Santa Rosa Road. (Subject Road”)

3 3. Plaintiff is ignorant of the true names and capacities of Defendants sued herein as Does 1  
 4 to 100 Inclusive, and therefore sues these Defendants by such fictitious names. Plaintiff will  
 5 Amend this complaint to allege their true names and capacities when ascertained. Plaintiff is  
 6 informed and believes and based thereon alleges that each of these fictitiously named  
 7 defendants are responsible in some manner for the occurrences herein alleged, and that  
 8 Plaintiff’s daughter’s death alleged were proximately caused by the aforementioned  
 9 defendants.  
 10

11 4. Plaintiff is informed and believes and based thereon alleges that at all times material herein  
 12 each fictitiously named defendant was either the true defendant or the agent and/ or employer  
 13 of each other defendant and in doing the things alleged herein, was acting within the scope  
 14 and purpose of such agency and with the permission and consent of, and their actions were  
 15 ratified by, the other Defendants.  
 16

#### 17 GENERAL ALLEGATIONS

18 5. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned herein  
 19 “defendant” State of CALIFORNIA (the State”) and does 1 to 100 was and is a public entity  
 20 authorized to conduct business, including supervising and administering roads, roadways,  
 21 traffic conditions, intersections, intersection controls and all other highway and roadway  
 22 issues within the State of California. This includes, but is not limited to, control of the State  
 23 Route 1 Road approximately 0.5 miles south of Santa Rosa Road .  
 24

25 6.. On February 14, 2020 Joseph Hernandez was traveling in his vehicle driving southbound  
 26  
 27  
 28 COMPLAINT FOR DAMAGES FOR: 1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF  
 PUBLIC PROPERTY 2.NEGLIGENCE3. WRONGFUL DEATH DEMAND FOR JURY TRIAL - 2

1 with passenger Selena Josefina Araiza on State Route 1. As a result of improper merging  
 2 lanes which existed at that time on State Route 1 another vehicle was unable to safely merge  
 3 into traffic and collided with Selena Josefina Araiza vehicle resulting in her death..

4 7. Plaintiff is informed, believes and thereon alleges that at all relevant times hereto,  
 5 Defendants STATE of California and Does 1 through 100, inclusive, improperly owned,  
 6 operated, managed, designed, planned, engineered, maintained, installed, inspected, repaired  
 7 Failed to repair and or controlled the subject road on State Route 1 thereby creating dangerous  
 8 conditions and exposing drivers to dangerous condition.  
 9

#### 10 **NOTICE OF CLAIM AGAINST THE STATE OF CALIFORNIA**

11 8. Withing the time provided by law, Plaintiff filed a claim with the State of California in full  
 12 compliance with the State of California's requirements of government code section 910 et seq..  
 13

14 On or about September 15, 2020, the State of California denied Plaintiff's claim.

15 By reason of the foregoing, Defendants STATE, and Does 1 through 50, inclusive, and each  
 16 of them, are liable for, and Plaintiffs are entitled to recover of them, her general, special, actual  
 17 and compensatory damages, including, but not limited to, her necessary medical and related  
 18 expenses, past, present and future lost earnings, loss of future earning capacity, as well as mental,  
 19 emotional and physical pain and suffering, as proven at time of trial. The total amount of Plaintiffs  
 20 damages are presently unknown but is reasonably believed to be in excess of the minimum  
 21 jurisdictional limit of this Court.  
 22

#### 23 **FIRST CAUSE OF ACTION**

24 **Statutory Liability/Dangerous Condition of Public Property Against Defendants**

25 **STATE, and (DOES 1 through 100, inclusive)**

26 9. Plaintiff repeats, realleges, and incorporates by this reference as though set forth in full  
 27 COMPLAINT FOR DAMAGES FOR: 1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF  
 28 PUBLIC PROPERTY 2.NEGLIGENCE3. WRONGFUL DEATH DEMAND FOR JURY TRIAL - 3



herein all prior allegations of this Complaint.

10. Prior to and on , Defendants STATE, and Does 1 through 100, inclusive, and/or their management, administrative, designers, planners, engineers, maintenance personnel, inspectors and/or other employees, staff, agents or contractors, acting within the course and scope of their duties and/or employment, negligently and improperly owned, operated, controlled, designed, planned, engineering, maintained, inspected, repaired, and/or failed to repair, State Route 1 Road approximately 0.5 miles south of Santa Rosa Road .

thereby creating dangerous conditions under *Gov. Code § 835* and exposing drivers to dangerous conditions. There should have been median walls, and barricades to prohibit cross traffic. There was also a lack of warning sign regarding the merging of the two lanes. The STATE undertook to control the, invited the reliance of motorists on the road and are liable as they created dangerous conditions in doing so. The absence of proper safety measures was done carelessly, negligently, inadequately and improperly and created a hazard, trap and dangerous condition under *Gov. Code § 835*. It also created a peculiar risk and trap. Defendants STATE, and Does 1 through 100, inclusive, should have installed a barricade separating the south and north bound lanes, proper signage, barricades, other safety equipment and devices, warnings, and warning devices on the State Route 1.

11. The collision was foreseeable to Defendants STATE, and Does 1 through 50, inclusive, and, yet, they failed to warn (or adequately warn) drivers.

12. The dangerous conditions created a reasonably foreseeable risk of the kind of injuries which were sustained, and (a) a negligent or wrongful act or omission of an employee of Defendants STATE, and Does 1 through 100, inclusive, created the dangerous conditions; and/or (b) they had actual or constructive notice of the dangerous conditions a sufficient time

COMPLAINT FOR DAMAGES FOR: 1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF PUBLIC PROPERTY 2.NEGLIGENCE3. WRONGFUL DEATH DEMAND FOR JURY TRIAL - 4

1 prior to the injury to have taken measures to protect against the dangerous conditions. These  
 2 dangerous conditions created a substantial risk of injury when the roadway was used with due  
 3 care by the public generally as drivers oversteer the roadway for a variety of non-negligent  
 4 circumstances (because of third party negligence, emergencies, mechanical failures and other  
 5 unforeseen circumstances) and a barricade guardrail (and other appropriate safety measures  
 6 listed within this complaint) is required to prevent vehicles from crashing each other.  
 7

8 13. The dangerous conditions and these acts and omissions of Defendants STATE, and Does  
 9 1 through 100, inclusive (and their management, administrative, designers, planners,  
 10 engineers, maintenance personnel, inspectors and/or other employees, staff, agents or  
 11 contractors, acting within the course and scope of their duties), proximately caused Plaintiff's  
 12 injuries.  
 13

14 14. Further, these dangerous conditions were directly attributable wholly or in substantial part  
 15 to a negligent or wrongful act of employees Defendants STATE, and Does 1 through 100,  
 16 inclusive, and these employees had the authority and the funds and other means immediately  
 17 available to take alternative action which would not have created the dangerous condition, and/or  
 18 these employees had the authority and it was his/her/their responsibility to take adequate measures  
 19 to protect against the dangerous condition at the expense of the public entity and the funds and  
 20 other means for doing so were immediately available to him/her/them, and he/she/they had actual  
 21 or constructive notice of the dangerous condition a sufficient time prior to the injury to have taken  
 22 measures to protect against the dangerous condition.  
 23  
 24

25 15. Further, signs, warnings or other devices were necessary to warn of these dangerous conditions  
 26 which endangered the safe movement of traffic and which would not be reasonably apparent to,  
 27 and would not have been anticipated by, a person exercising due care.

28 COMPLAINT FOR DAMAGES FOR: 1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF  
 PUBLIC PROPERTY 2.NEGLIGENCE3. WRONGFUL DEATH DEMAND FOR JURY TRIAL - 5

1 16. Further, Defendants STATE, and Does 1 through 100, inclusive, and their employees acting  
 2 within the scope of their employment undertook, gratuitously or for consideration, to avoid,  
 3 remedy and/or abate these dangerous conditions. These undertakings and promises were the kind  
 4 that they recognized as necessary for the protection of third persons. Defendants STATE, and Does  
 5 1 through 100, inclusive, and their employees acting within the scope of their employment failed  
 6 to exercise reasonable care in the performance of these undertakings and promises, the failure to  
 7 exercise reasonable care resulted in physical harm to the third persons; and *either* (a) their  
 8 carelessness increased the risk of such harm, or (b) the undertaking or promises were to perform a  
 9 duty that the other owed to the third persons, or (c) the harm was suffered because either the other  
 10 or the third persons relied on the undertaking.

13 17. Due to these acts and failures to act and dangerous conditions, Defendants STATE, and Does  
 14 1 through 100, inclusive, and their employees are liable for Plaintiff's injuries under the  
 15 Government Code, including, but not limited to, Sections 815(a), 815.2(a), 815.6, 820(a), , 830(a),  
 16 830.8, 835, 835.2, 835.4 and 840.2.

18 18. The collision was foreseeable to Defendants STATE, and Does 1 through 100, inclusive, and,  
 19 yet, they failed to warn (or adequately warn) drivers. It is believed that notice was actually provided  
 20 to Defendants STATE, and Does 1 through 100, inclusive.

21 19. The dangerous conditions created a reasonably foreseeable risk of the kind of injuries which  
 22 were sustained, and (a) a negligent or wrongful act or omission of an employee of Defendants  
 23 STATE, and Does 1 through 100, inclusive, created the dangerous conditions; and/or (b) they had  
 24 actual or constructive notice of the dangerous conditions a sufficient time prior to the injury to  
 25 have taken measures to protect against the dangerous conditions. These dangerous conditions  
 26 created a substantial risk of injury when the roadway was used with due care by the public  
 27  
 28 COMPLAINT FOR DAMAGES FOR: 1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF  
 PUBLIC PROPERTY 2.NEGLIGENCE3. WRONGFUL DEATH DEMAND FOR JURY TRIAL - 6

1 generally as drivers who are going at 55 MPH on Route 1 have to merge into one lane traffic with  
 2 poor lighting, and other improper roadway route for a variety of non-negligent circumstances  
 3 (because of third party negligence, emergencies, mechanical failures and other unforeseen  
 4 circumstances) and a barricade is required to prevent vehicles from falling/crashing to each other.  
 5

6 20. The dangerous conditions and these acts and omissions of Defendants STATE, and Does 1  
 7 through 100, inclusive (and their management, administrative, designers, planners, engineers,  
 8 maintenance personnel, inspectors and/or other employees, staff, agents or contractors, acting  
 9 within the course and scope of their duties), proximately caused Plaintiff's injuries.  
 10

11 21. Further, these dangerous conditions were directly attributable wholly or in substantial part  
 12 to a negligent or wrongful act of employees of Defendants STATE, and Does 1 through 100,  
 13 inclusive, and these employees had the authority and the funds and other means immediately  
 14 available to take alternative action which would not have created the dangerous condition, and/or  
 15 these employees had the authority and it was his/her/their responsibility to take adequate measures  
 16 to protect against the dangerous condition at the expense of the public entity and the funds and  
 17 other means for doing so were immediately available to him/her/them, and he/she/they had actual  
 18 or constructive notice of the dangerous condition a sufficient time prior to the injury to have taken  
 19 measures to protect against the dangerous condition.  
 20

21 22. Further, signs, warnings or other devices were necessary to warn of these dangerous conditions  
 22 which endangered the safe movement of traffic and which would not be reasonably apparent to,  
 23 and would not have been anticipated by, a person exercising due care.  
 24

25 23. Further, Defendants STATE, and Does 1 through 100, inclusive, and their employees acting  
 26 within the scope of their employment undertook, gratuitously or for consideration, to avoid,  
 27 remedy and/or abate these dangerous conditions. These undertakings and promises were the kind  
 28 COMPLAINT FOR DAMAGES FOR: 1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF  
 PUBLIC PROPERTY 2.NEGLIGENCE3. WRONGFUL DEATH DEMAND FOR JURY TRIAL - 7

1 that they recognized as necessary for the protection of third persons. Defendants STATE, and  
 2 Does 1 through 100, inclusive, and their employees acting within the scope of their employment  
 3 failed to exercise reasonable care in the performance of these undertakings and promises, the  
 4 failure to exercise reasonable care resulted in physical harm to the third persons; and *either* (a)  
 5 their carelessness increased the risk of such harm, or (b) the undertaking or promises were to  
 6 perform a duty that the other owed to the third persons, or (c) the harm was suffered because either  
 7 the other or the third persons relied on the undertaking.  
 8

9 24. Due to these acts and failures to act and dangerous conditions, Defendants STATE, and  
 10 Does 1 through 100, inclusive, and their employees are liable for Plaintiff's injuries under the  
 11 Government Code, including, but not limited to, Sections 815 (a), 815.2(a), 815.6, 820(a),  
 12 830(a), 830.8, 835, 835.2, 835.4 and 840.2.  
 13

## 14 SECOND CAUSE OF ACTION

### 15 (Negligence Against DOES 1 - 100 inclusive)

16 25. Plaintiff repeats, realleges, and incorporates by this reference as though set forth in full  
 17 herein all prior allegations of this Complaint.  
 18

19 26. Plaintiff is informed and believes, and thereon alleges, that at said time and place at or  
 20 near the subject location, Defendant DOES 1 through 100, inclusive, so negligently and  
 21 improperly owned, operated, controlled, designed, planned, engineering, maintained,  
 22 inspected, installed, repaired, and/or failed to repair, State Route 1 approximately 0.5 miles  
 23 South of Santa Rosa Rd. so as to cause fatal injury to Plaintiff's daughter. Thereby proximately  
 24 causing the herein described wrongful death and damages to Plaintiffs Selena Josefina Araiza .  
 25

26 27. Defendant DOES 1 through 100, inclusive, and/or their management, administrative, designers,  
 27 planners, engineers, maintenance personnel, inspectors and/or other employees, staff, agents or  
 28 COMPLAINT FOR DAMAGES FOR: 1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF  
 PUBLIC PROPERTY 2. NEGLIGENCE 3. WRONGFUL DEATH DEMAND FOR JURY TRIAL - 8

1 contractors, acting within the course and scope of their duties and through negligent or wrongful  
 2 acts or omissions created, or allowed to be created, a dangerous condition. The installation,  
 3 maintenance, repair, operation, monitoring and/or control of State Route 1 were done negligently,  
 4 inadequately and improperly and created a hazard, trap and dangerous condition. It also created a  
 5 peculiar risk and trap as Defendants Does 1 through 100, inclusive, should have installed signal  
 6 lights, and warning signs letting drivers know that the lanes were merging, barricades, other safety  
 7 equipment and devices, warnings, and warning devices on the road on State Route 1.

9 24. As a direct and proximate result of the conduct of Defendant DOES 1 through 100, inclusive,  
 10 are liable for, and Plaintiff is entitled to recover of them, her general, special, actual and  
 11 compensatory damages, including, but not limited to, her necessary medical and related expenses,  
 12 past, present and future lost earnings, loss of future earning capacity, as well as mental, emotional  
 13 and physical pain and mental suffering, as proven at time of trial. The total amount of Plaintiff's  
 14 damages is presently unknown but is reasonably believed to be in excess of the minimum  
 15 jurisdictional limit of this Court.

17  
 18 **THIRD CAUSE OF ACTION: WRONGFUL DEATH Against**

19 **Defendants STATE, and (DOES 1 through 100, inclusive)**

20 28. PLAINTIFF re-alleges paragraphs 1 through 27, inclusive, and incorporates them herein by  
 21 reference as though set forth in full.

22  
 23 29. As a direct and proximate of each DEFENDANTS' actions or inactions, carelessness,  
 24 recklessness, wantonness, and unlawfulness, PLAINTIFF suffered fatal injuries.

25 30. As a further direct and proximate result of each DEFENDANTS actions or inactions,  
 26 carelessness, recklessness, wantonness, and unlawfulness, PLAINTIFF has suffered economic

27 damages, including but not limited to monetary contributions and financial support from  
 28 COMPLAINT FOR DAMAGES FOR: 1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF  
 PUBLIC PROPERTY 2. NEGLIGENCE 3. WRONGFUL DEATH DEMAND FOR JURY TRIAL - 9



1 PLAINTIFF, loss of gifts or benefits, household services, noneconomic damages, including but  
 2 not limited to being deprived of the love, affection, solace, companionship, society, moral support,  
 3 assistance, protection, training and guidance, consortium, services, comfort, care, counsel and  
 4 advice of PLAINTIFF, and any other damages as permitted by law.

5  
 6 **REQUEST FOR JURY TRIAL**

7 Plaintiffs hereby requests a trial by jury on all claims for relief alleged in, and on all issues  
 8 raised by, this Complaint.

9  
 10 **PRAYER**

11 WHEREFORE, Plaintiff demands judgment against Defendants as follows:

- 12 1. For an award of Plaintiffs general, special, actual and compensatory damages as  
 13 proven at time of trial, with interest thereon according to law;  
 14 2. For an award of the costs incurred by Plaintiffs in bringing and maintaining this action;  
 15 3. For such other and further relief which this Court deems just and proper.

16  
 17 DATED: Feb 27, 2021

By: Law Office of Isaac Toveg PLC

18 **/S/ ISAAC TOVEG**

19 Isaac Toveg, Attorney  
 20  
 21  
 22  
 23  
 24  
 25  
 26  
 27

28 COMPLAINT FOR DAMAGES FOR: 1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF  
 PUBLIC PROPERTY 2.NEGLIGENCE3. WRONGFUL DEATH DEMAND FOR JURY TRIAL - 10

NAME, ADDRESS, AND TELEPHONE NUMBER OF ATTORNEY OR PARTY WITHOUT ATTORNEY. Law Offices Of Isaac Toveg Isaac Toveg 2600 W Olive Ave 5th Floor Burbank Ca 91505		STATE BAR NUMBER 269729	Reserved for Clerk's File Stamp  <b>ELECTRONICALLY FILED</b> Superior Court of California County of Santa Barbara Darrel E. Parker, Executive Officer 5/27/2021 11:15 PM By: Jazmine Teimori, Deputy
ATTORNEY FOR (Name): <u>MONICA ARAIZA</u>			
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF <u>SANTA BARBARA</u></b>			
COURTHOUSE ADDRESS: SANTA MARIA - COOK, 312 -C EAST COOK ST, SANTA MARIA CA 93454			
PLAINTIFF: MONICA ARAIZA			
DEFENDANT: THE STATE OF CALIFORNIA AND DOES 1 TO 100 INCLUSIVE			
<b>AMENDMENT TO COMPLAINT</b> (Fictitious /Incorrect Name)		CASE NUMBER: 21CV01049	

☒ **FICTITIOUS NAME (No order required)**

Upon the filing of the complaint, the plaintiff, being ignorant of the true name of the defendant and having designated the defendant in the complaint by the fictitious name of:

FICTITIOUS NAME

PLAINTIFF: DOES 1

and having discovered the true name of the defendant to be:

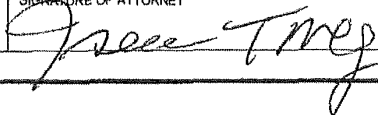
TRUE NAME

IFRAIN ARAIZA

amends the complaint by substituting the true name for the fictitious name wherever it appears in the complaint.

DATE  
05/18/2021TYPE OR PRINT NAME  
ISAAC TOVEG

SIGNATURE OF ATTORNEY


☐ **INCORRECT NAME (Order required)**

The plaintiff, having designated a defendant in the complaint by the incorrect name of:

INCORRECT NAME

and having discovered the true name of the defendant to be:

TRUE NAME

amends the complaint by substituting the true name for the incorrect name wherever it appears in the complaint.

DATE

TYPE OR PRINT NAME

SIGNATURE OF ATTORNEY

**ORDER**

THE COURT ORDERS the amendment approved and filed.

Dated

Judicial Officer

LASC LACIV 105 (Rev. 08/18)  
For Optional Use

**AMENDMENT TO COMPLAINT**  
(Fictitious / Incorrect Name)

Code Civ. Proc., §§ 471.5,  
472, 473, 474

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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Catherine Takayama (SBN 303690); Brandon Mickle (SBN 298778) State of California, California Department of Transportation ("Caltrans") 111 Grand Avenue, P.O. Box 24325, Oakland, CA 94623-1325 TELEPHONE NO.: (510) 433-9100 FAX NO. (Optional): (510) 433-9167 E-MAIL ADDRESS (Optional): catherine.takayama@dot.ca.gov ATTORNEY FOR (Name): Defendant State of California		<b>FOR COURT USE ONLY</b>  ELECTRONICALLY FILED Superior Court of California County of Santa Barbara Darrel E. Parker, Executive Officer 7/2/2021 2:53 PM By: Narzralli Baksh, Deputy
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Barbara</b> STREET ADDRESS: 213-C East Cook Street MAILING ADDRESS: CITY AND ZIP CODE: Santa Maria 93454 BRANCH NAME: Cook Division		
PLAINTIFF/PETITIONER: Monica Araiza, et al. DEFENDANT/RESPONDENT: State of California, et al.		
<b>CASE MANAGEMENT STATEMENT</b> (Check one): <input checked="" type="checkbox"/> <b>UNLIMITED CASE</b> (Amount demanded exceeds \$25,000) <input type="checkbox"/> <b>LIMITED CASE</b> (Amount demanded is \$25,000 or less)		
A <b>CASE MANAGEMENT CONFERENCE</b> is scheduled as follows: Date: 07/13/21 Time: 08:30 am Dept.: 3 Div.: Civil Room: Address of court (if different from the address above): <input checked="" type="checkbox"/> <b>Notice of Intent to Appear by Telephone, by (name):</b> Catherine Takayama, Esq.		CASE NUMBER: 21CV01049

**INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.**

- Party or parties (answer one):**
  - ☒ This statement is submitted by party (name): State of California, Caltrans
  - ☐ This statement is submitted **jointly** by parties (names):
- Complaint and cross-complaint (to be answered by plaintiffs and cross-complainants only)**
  - The complaint was filed on (date):
  - ☐ The cross-complaint, if any, was filed on (date):
- Service (to be answered by plaintiffs and cross-complainants only)**
  - ☐ All parties named in the complaint and cross-complaint have been served, have appeared, or have been dismissed.
  - ☐ The following parties named in the complaint or cross-complaint
    - ☐ have not been served (specify names and explain why not):
    - ☐ have been served but have not appeared and have not been dismissed (specify names):
    - ☐ have had a default entered against them (specify names):
  - ☐ The following additional parties may be added (specify names, nature of involvement in case, and date by which they may be served):
- Description of case**
  - Type of case in ☒ complaint ☐ cross-complaint (Describe, including causes of action):  
 Plaintiff alleges damages from an automobile accident. Plaintiff's three causes of action are Negligence, Wrongful Death & Dangerous Condition of Public Property

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PLAINTIFF/PETITIONER: Monica Araiza, et al.	CASE NUMBER:
DEFENDANT/RESPONDENT: State of California, et al.	21CV01049

4. b. Provide a brief statement of the case, including any damages. *(If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)*

Plaintiffs allege damages resulting from an accident that occurred on February 14, 2020. Decedent Selena Araiza was a passenger in a vehicle that collided with another vehicle on southbound State Route 1, near Santa Rosa Road in Lompoc, California.

☐ *(If more space is needed, check this box and attach a page designated as Attachment 4b.)*

5. **Jury or nonjury trial**

The party or parties request ☒ a jury trial ☐ a nonjury trial. *(If more than one party, provide the name of each party requesting a jury trial):*

6. **Trial date**

a. ☐ The trial has been set for (date):

b. ☒ No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint *(if not, explain):*

c. Dates on which parties or attorneys will not be available for trial *(specify dates and explain reasons for unavailability):*

7. **Estimated length of trial**

The party or parties estimate that the trial will take *(check one):*

a. ☒ days *(specify number):* 5-7

b. ☐ hours (short causes) *(specify):*

8. **Trial representation** *(to be answered for each party)*

The party or parties will be represented at trial ☒ by the attorney or party listed in the caption ☐ by the following:

a. Attorney:

b. Firm:

c. Address:

d. Telephone number:

f. Fax number:

e. E-mail address:

g. Party represented:

☐ Additional representation is described in Attachment 8.

9. **Preference**

☐ This case is entitled to preference *(specify code section):*

10. **Alternative dispute resolution (ADR)**

a. **ADR information package.** Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 for information about the processes available through the court and community programs in this case.

(1) For parties represented by counsel: Counsel ☐ has ☒ has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.

(2) For self-represented parties: Party ☐ has ☐ has not reviewed the ADR information package identified in rule 3.221.

b. **Referral to judicial arbitration or civil action mediation** (if available).

(1) ☐ This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.

(2) ☐ Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.

(3) ☐ This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. *(specify exemption):*

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PLAINTIFF/PETITIONER: Monica Araiza, et al.	CASE NUMBER:
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10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (*check all that apply and provide the specified information*):

	The party or parties completing this form <b>are willing</b> to participate in the following ADR processes ( <i>check all that apply</i> ):	If the party or parties completing this form in the case <b>have agreed</b> to participate in or have already completed an ADR process or processes, indicate the status of the processes ( <i>attach a copy of the parties' ADR stipulation</i> ):
(1) Mediation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for (date): <input type="checkbox"/> Agreed to complete mediation by (date): <input type="checkbox"/> Mediation completed on (date):
(2) Settlement conference	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for (date): <input type="checkbox"/> Agreed to complete settlement conference by (date): <input type="checkbox"/> Settlement conference completed on (date):
(3) Neutral evaluation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for (date): <input type="checkbox"/> Agreed to complete neutral evaluation by (date): <input type="checkbox"/> Neutral evaluation completed on (date):
(4) Nonbinding judicial arbitration	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete judicial arbitration by (date): <input type="checkbox"/> Judicial arbitration completed on (date):
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete private arbitration by (date): <input type="checkbox"/> Private arbitration completed on (date):
(6) Other ( <i>specify</i> ):	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for (date): <input type="checkbox"/> Agreed to complete ADR session by (date): <input type="checkbox"/> ADR completed on (date):

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PLAINTIFF/PETITIONER: Monica Araiza, et al.	CASE NUMBER:
DEFENDANT/RESPONDENT: State of California, et al.	21CV01049

**11. Insurance**

- a. ☐ Insurance carrier, if any, for party filing this statement (*name*):
- b. Reservation of rights: ☐ Yes ☐ No
- c. ☐ Coverage issues will significantly affect resolution of this case (*explain*):

**12. Jurisdiction**

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

☐ Bankruptcy ☐ Other (*specify*):

Status:

**13. Related cases, consolidation, and coordination**

- a. ☐ There are companion, underlying, or related cases.
- (1) Name of case:
- (2) Name of court:
- (3) Case number:
- (4) Status:
- ☐ Additional cases are described in Attachment 13a.
- b. ☐ A motion to ☐ consolidate ☐ coordinate will be filed by (*name party*):

**14. Bifurcation**

- ☐ The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (*specify moving party, type of motion, and reasons*):

**15. Other motions**

- ☒ The party or parties expect to file the following motions before trial (*specify moving party, type of motion, and issues*):
- Counsel for plaintiffs and the State engaged in a good faith effort to resolve the State's concerns regarding deficiencies in the Complaint. Plaintiffs have agreed to file an amended complaint.

**16. Discovery**

- a. ☐ The party or parties have completed all discovery.
- b. ☒ The following discovery will be completed by the date specified (*describe all anticipated discovery*):
- | Party              | Description        | Date                 |
|--------------------|--------------------|----------------------|
| Defendant Caltrans | Written Discovery  | Per Statutory Period |
| Defendant Caltrans | Depositions        | Per Statutory Period |
| Defendant Caltrans | Document Subpoenas | Per Statutory Period |
- c. ☐ The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (*specify*):



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PLAINTIFF/PETITIONER: Monica Araiza, et al.	CASE NUMBER: 21CV01049
DEFENDANT/RESPONDENT: State of California, et al.	

17. **Economic litigation**

- a. ☐ This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. ☐ This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (*if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case*):

18. **Other issues**

- ☐ The party or parties request that the following additional matters be considered or determined at the case management conference (*specify*):

19. **Meet and confer**

- a. ☒ The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (*if not, explain*):  
The Parties have not yet met and conferred pursuant to rule 3.724. The topics in rule 3.274 are not yet ripe for discussion considering that Plaintiff has not filed an amended complaint.
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (*specify*):

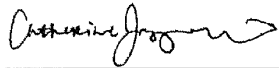
20. Total number of pages attached (*if any*): \_\_\_\_\_

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: 07/02/21

Catherine Takayama

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY)

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

☐ Additional signatures are attached.

Case Name: *Monica Araiza, et al. v. State of California, et al.*  
Case No.: Santa Barbara County Superior Court Case No. 21CV01049

**PROOF OF SERVICE**

I am employed in the City of Oakland, State of California. I am over the age of 18 years and not a party to the within action. My business address is 111 Grand Avenue, Suite 11-100, Oakland, California 94612; Mail: P.O. Box 24325, Oakland, CA 94623-1325.

On the date set forth below, I served a true copy of the following document(s):

**CASE MANAGEMENT STATEMENT**

on the interested parties to said action by the following means:

[ **XX** ] (BY ELECTRONIC-MAIL ONLY) by attaching a copy of the document(s) in PDF format sent from [francia.aquino@dot.ca.gov](mailto:francia.aquino@dot.ca.gov) to the email addresses of the parties listed below, pursuant to Code of Civil Procedure section 1010.6, subd. (a) and (e), permitting electronic service of notices or documents that may be served by mail, express mail, overnight delivery, or facsimile transmission. No hard copies will follow.

COUNSEL OF RECORD	EMAIL ADDRESSES
Isaac Toveg, Esq. Law Offices of Isaac Toveg 2600 W. Olive Ave., 5 <sup>th</sup> Floor Burbank, CA 91505  <i>Attorney for Plaintiffs, Monica Araiza, et al.</i>	<a href="mailto:isaactoveg@aol.com">isaactoveg@aol.com</a>
With cc to: Catherine Takayama, Esq. Brandon Mickle, Esq.  CALTRANS LEGAL DIVISION <i>Attorneys for Defendant, STATE OF CALIFORNIA DEPT. OF TRANSPORTATION</i>	<a href="mailto:catherine.takayama@dot.ca.gov">catherine.takayama@dot.ca.gov</a> <a href="mailto:brandon.mickle@dot.ca.gov">brandon.mickle@dot.ca.gov</a> <a href="mailto:maria.cordonero@dot.ca.gov">maria.cordonero@dot.ca.gov</a>

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 2, 2021 at Daly City, California.

FRANCIA AQUINO, Declarant

CIV-141

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO: NAME: Catherine Takayama (SBN 303690); Brandon Mickle (SBN 298778) FIRM NAME: Caltrans Legal Division – Bay Area Office STREET ADDRESS: 111 Grand Avenue, Suite 11-100 CITY: Oakland STATE: CA ZIP CODE: 94612 TELEPHONE NO.: (510) 433-9100 FAX NO.: (510) 433-9167 E-MAIL ADDRESS: catherine.takayama@dot.ca.gov ATTORNEY FOR (Name): Defendant STATE OF CALIFORNIA		<b>FOR COURT USE ONLY</b>  ELECTRONICALLY FILED Superior Court of California County of Santa Barbara Darrel E. Parker, Executive Officer 5/28/2021 1:54 PM By: Sharon Leyden, Deputy
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA BARBARA</b> STREET ADDRESS: 312-C East Cook Street MAILING ADDRESS: 312-C East Cook Street CITY AND ZIP CODE: Santa Maria 93454 BRANCH NAME: Santa Maria		
PLAINTIFF/PETITIONER: MONICA ARAIZA DEFENDANT/RESPONDENT: STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION		
<b>DECLARATION OF DEMURRING OR MOVING PARTY IN SUPPORT OF AUTOMATIC EXTENSION</b>		CASE NUMBER: 21CV01049

1. (Name of party): Defendant State of California, Department of Transportation was served with
- ☒ a complaint
 ☐ an amended complaint
 ☐ a cross-complaint  
☐ an answer
 ☐ other (specify):  
 in the above-titled action.

2. For a demurrer or motion to strike, a responsive pleading is due on (date): June 1, 2021

#### DECLARATION

I intend to file a demurrer, motion to strike, or motion for judgment on the pleadings in this action. Before I can do so, I am required to meet and confer with the party who filed the pleading that I am responding to at least five days before the date when the responsive pleading is due (if I am filing a demurrer or motion to strike) and at least five days before the last day a motion for judgment on the pleadings may be filed (if I am filing a motion for judgment on the pleadings). We have not been able to meet and confer. I have not previously requested an automatic extension of time. Therefore, on timely filing and serving a declaration that meets the requirements of Code of Civil Procedure sections 430.41, 435.5, or 439, I am entitled to an automatic 30-day extension of time within which to file a responsive pleading or motion for judgment on the pleadings.

I made a good faith attempt to meet and confer with the party who filed the pleading at least five days before the date the responsive pleading was due (if I am filing a demurrer or motion to strike) and at least five days before the last day a motion for judgment on the pleadings may be filed (if I am filing a motion for judgment on the pleadings). I was unable to meet with that party because (the reasons why the parties could not meet and confer are stated):

- ☒ below
 ☐ on form MC-031, Attached Declaration

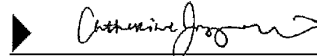
On May 19, 2021, I sent a detailed correspondence to plaintiff's counsel identifying various defects in the Complaint and requested a telephone conference on May 24, 2021. On May 21, 2021, Plaintiff's counsel informed me that he is out of the office until June 7, 2021, and will not be able to meet and confer until June 8, 2021.

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: May 28, 2021

Catherine Takayama

(NAME OF PARTY OR ATTORNEY FOR PARTY)



(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

Page 1 of 1

Case Name: *Monica Araiza v. State of California, et al.*

Case No.: Santa Barbara County Superior Court Case No. 21CV01049

**PROOF OF SERVICE**

I, the undersigned, say: I am, and was at all times herein mentioned, employed in the City of Oakland, and County of Alameda, over the age of 18 years and not a party to the within action or proceedings; that my business address is 111 Grand Avenue, Suite 11-100, Oakland, California 94612; Mail: P.O. Box 24325, Oakland, CA 94623-1325; that on the date set forth below, I served the within:

**DECLARATION OF DEMURRING OR MOVING PARTY  
IN SUPPORT OF AUTOMATIC EXTENSION**

on all interested parties in said action by:

— (MAIL) By placing a true copy thereof enclosed in a sealed envelope for each person(s) named below, addressed as set forth immediately below the respective name(s), with postage thereon fully prepaid as first-class mail. I deposited the same in a mailing facility regularly maintained by the United States Post Office for the mailing of letter(s) at my above-stated place of business.

X (BY ELECTRONIC-MAIL ONLY) by attaching a copy of the document(s) in PDF format sent to the email addresses of the parties listed below, pursuant to stipulation. No hard copies will follow.

— (FACSIMILE TRANSMITTAL) By faxing a true copy thereof as indicating by the address(es), and facsimile telephone number(s) for each person(s) named below as set forth immediately below the respective name(s) pursuant to this Proof of Service.

— (OVERNIGHT DELIVERY) By placing a true copy thereof, enclosed in a sealed envelope, to be delivered by the express mail carrier, to the address(es) shown below.

Isaac Toveg, Esq. Law Offices of Isaac Toveg 2600 W. Olive Ave., 5 <sup>th</sup> Floor Burbank, CA 91505 <a href="mailto:isaactoveg@aol.com">isaactoveg@aol.com</a> <i>Attorney for Plaintiff, Monica Araiza</i>	
---	--

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 28, 2021 at San Francisco, California.

  
CORAZON PILARE, Declarant

CM-110

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Law Offices of Isaac Toveg Isaac Toveg SBN 269729 2600 W Olive Ave 5th floor  TELEPHONE NO.: 818-333-5202 FAX NO. (Optional): E-MAIL ADDRESS (Optional): isaactoveg@aol.com ATTORNEY FOR (Name): Monica Araiza		<b>FOR COURT USE ONLY</b> <b>ELECTRONICALLY FILED</b> Superior Court of California County of Santa Barbara Darrel E. Parker, Executive Officer 7/7/2021 8:46 PM By: Narzralli Baksh, Deputy
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Barbara</b> STREET ADDRESS: 213-C EAST COOK STREET MAILING ADDRESS: CITY AND ZIP CODE: SANTA MARIA 9354 BRANCH NAME: COOK DIVISION		
PLAINTIFF/PETITIONER: MONICA ARAIZA, ET AL DEFENDANT/RESPONDENT: STATE OF CALIFORNIA, ET AL		
<b>CASE MANAGEMENT STATEMENT</b> (Check one): <input checked="" type="checkbox"/> <b>UNLIMITED CASE</b> (Amount demanded exceeds \$25,000) <input type="checkbox"/> <b>LIMITED CASE</b> (Amount demanded is \$25,000 or less)		
		CASE NUMBER: 21CV01049
A <b>CASE MANAGEMENT CONFERENCE</b> is scheduled as follows: Date: 07/13/2021 Time: 8:30 Dept.: 3 Div.: 8 Room: Address of court (if different from the address above):  <input type="checkbox"/> <b>Notice of Intent to Appear by Telephone, by (name):</b>		

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

1. **Party or parties** (answer one):
  - a. ☒ This statement is submitted by party (name): MONICA ARAIZA
  - b. ☐ This statement is submitted jointly by parties (names):
2. **Complaint and cross-complaint** (to be answered by plaintiffs and cross-complainants only)
  - a. The complaint was filed on (date):
  - b. ☐ The cross-complaint, if any, was filed on (date):
3. **Service** (to be answered by plaintiffs and cross-complainants only)
  - a. ☒ All parties named in the complaint and cross-complaint have been served, have appeared, or have been dismissed.
  - b. ☐ The following parties named in the complaint or cross-complaint
    - (1) ☐ have not been served (specify names and explain why not):
    - (2) ☐ have been served but have not appeared and have not been dismissed (specify names):
    - (3) ☐ have had a default entered against them (specify names):
  - c. ☐ The following additional parties may be added (specify names, nature of involvement in case, and date by which they may be served):
4. **Description of case**
  - a. Type of case in ☒ complaint ☐ cross-complaint (Describe, including causes of action):  
 This is a automobile collision case where plaintiff is alleging dangerous conditions of public property, negligence and wrongful death.

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PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
--	--------------

4. b. Provide a brief statement of the case, including any damages. *(If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)*

This is a automobile collision case where plaintiff is alleging dangerous conditions of public property, negligence and wrongful death. Special damages in the amount over \$10,000 plus general damages of over \$10,900,000.

☐ *(If more space is needed, check this box and attach a page designated as Attachment 4b.)*

5. **Jury or nonjury trial**

- a. The party or parties request ☒ a jury trial ☐ a nonjury trial. *(If more than one party, provide the name of each party requesting a jury trial):*

6. **Trial date**

- a. ☐ The trial has been set for *(date)*:  
b. ☒ No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint *(if not, explain)*:

- c. Dates on which parties or attorneys will not be available for trial *(specify dates and explain reasons for unavailability)*:

7. **Estimated length of trial**

The party or parties estimate that the trial will take *(check one)*:

- a. ☒ days *(specify number)*: 7 to 10 days  
b. ☐ hours *(short causes) (specify)*:

8. **Trial representation (to be answered for each party)**

The party or parties will be represented at trial ☒ by the attorney or party listed in the caption ☐ by the following:

- a. Attorney:  
b. Firm:  
c. Address:  
d. Telephone number:  
e. E-mail address:  
f. Fax number:  
g. Party represented:

☐ Additional representation is described in Attachment 8.

9. **Preference**

☐ This case is entitled to preference *(specify code section)*:

10. **Alternative dispute resolution (ADR)**

- a. **ADR information package.** Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 for information about the processes available through the court and community programs in this case.

(1) For parties represented by counsel: Counsel ☐ has ☐ has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.

(2) For self-represented parties: Party ☐ has ☐ has not reviewed the ADR information package identified in rule 3.221.

- b. **Referral to judicial arbitration or civil action mediation (if available).**

(1) ☐ This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.

(2) ☐ Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.

(3) ☐ This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. *(specify exemption)*:



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PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (*check all that apply and provide the specified information*):

	The party or parties completing this form <b>are willing</b> to participate in the following ADR processes ( <i>check all that apply</i> ):	If the party or parties completing this form in the case <b>have agreed</b> to participate in or have already completed an ADR process or processes, indicate the status of the processes ( <i>attach a copy of the parties' ADR stipulation</i> ):
(1) Mediation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for (date): <input type="checkbox"/> Agreed to complete mediation by (date): <input type="checkbox"/> Mediation completed on (date):
(2) Settlement conference	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for (date): <input type="checkbox"/> Agreed to complete settlement conference by (date): <input type="checkbox"/> Settlement conference completed on (date):
(3) Neutral evaluation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for (date): <input type="checkbox"/> Agreed to complete neutral evaluation by (date): <input type="checkbox"/> Neutral evaluation completed on (date):
(4) Nonbinding judicial arbitration	<input type="checkbox"/>	<input type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete judicial arbitration by (date): <input type="checkbox"/> Judicial arbitration completed on (date):
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete private arbitration by (date): <input type="checkbox"/> Private arbitration completed on (date):
(6) Other ( <i>specify</i> ):	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for (date): <input type="checkbox"/> Agreed to complete ADR session by (date): <input type="checkbox"/> ADR completed on (date):

CM-110

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
--	--------------

**11. Insurance**

- a. ☐ Insurance carrier, if any, for party filing this statement (*name*):
- b. Reservation of rights: ☐ Yes ☐ No
- c. ☐ Coverage issues will significantly affect resolution of this case (*explain*):

**12. Jurisdiction**

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

☐ Bankruptcy ☐ Other (*specify*):

Status:

**13. Related cases, consolidation, and coordination**

- a. ☐ There are companion, underlying, or related cases.
- (1) Name of case:
- (2) Name of court:
- (3) Case number:
- (4) Status:
- ☐ Additional cases are described in Attachment 13a.
- b. ☐ A motion to ☐ consolidate ☐ coordinate will be filed by (*name party*):

**14. Bifurcation**

- ☐ The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (*specify moving party, type of motion, and reasons*):

**15. Other motions**

- ☐ The party or parties expect to file the following motions before trial (*specify moving party, type of motion, and issues*):

**16. Discovery**

- a. ☐ The party or parties have completed all discovery.
- b. ☒ The following discovery will be completed by the date specified (*describe all anticipated discovery*):

<u>Party</u>	<u>Description</u>	<u>Date</u>
Plaintiff Araiza	Written discovery	July 1, 2022
	Depositions	July 1, 2022
	Expert testimony	October 1 2022

- c. ☐ The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (*specify*):

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PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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**17. Economic litigation**

- a. ☐ This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. ☐ This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case):

**18. Other issues**

- ☐ The party or parties request that the following additional matters be considered or determined at the case management conference (specify):

**19. Meet and confer**

- a. ☐ The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (if not, explain):
- b. ☐ After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (specify):

20. Total number of pages attached (if any): \_\_\_\_\_

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: JUNE 28, 2021

Isaac Toveg

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY)

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

☐ Additional signatures are attached.

CM-110 (Rev. July 1, 2011)

**CASE MANAGEMENT STATEMENT**

Page 5 of 5

For your protection and privacy, please press the Clear This Form button after you have printed the form.

Print this form

Save this form

Clear this form

**PROOF OF SERVICE**

I, the undersigned, say: I am over 18 years of age, employed in the County of Los Angeles, California, in which the within-mentioned service occurred; and that I am not a party to the subject case. My business address is 2600 West Olive Avenue, 5<sup>th</sup> Floor, Burbank, California 91505.

On June 28th, 2021, I served the following document(s):  
NOTICE OF RECEIPT OF TRANSFER CASE

To the following :


CATHERINE TAKAYAMA  
STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION  
111 GRAND AVENUE P.O BOX 24325 OAKLAND CA 94623-1325  
Catherine.takayama@dot.ca.gov

☐ BY MAIL. I am familiar with this firm's practice of collection and processing correspondence for mailing with the United States Postal Service, and that the correspondence shall be deposited with the United States Postal Service this same day in the ordinary course of business pursuant to Code of Civil Procedure, §1013a.

☐ BY FAX. A copy of said document(s) were delivered by facsimile transmission to the addressee pursuant to Code of Civil Procedure §1013(e):

☒ BY Email. I caused said document(s) to be delivered electronically to the addressee pursuant to Code of Civil Procedure §1011.

I declare under the penalty of perjury, under the laws of the State of California that the foregoing is true and correct. Executed this 06/28/ 2021, in Burbank, CA 91505.

  
/S/ Brittainy Caudillo  
Declarant

PLEADING TITLE - 1

1 Law Offices Of Isaac Toveg  
 2 Isaac Toveg SBN 269729  
 2600 W Olive Ave 5<sup>th</sup> Floor  
 3 Burbank CA 91505  
 818-333-5202  
 4 Isaactoveg@aol.com

ELECTRONICALLY FILED  
 Superior Court of California  
 County of Santa Barbara  
 Darrel E. Parker, Executive Officer  
 7/7/2021 1:56 PM  
 By: Sharon Leyden, Deputy

No Summons Filed

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SANTA BARBARA

8 MONICA ARAIZA, AND IFRAIN ARAIZA,

9 Plaintiffs,

10 vs.

11 THE STATE OF CALIFORNIA, AND DOES  
 12 1 TO 100 INCLUSIVE

13 Defendant

Case No.: 21CV01049

**PLAINTIFFS MONICA AND IFRAIN  
 ARAIZA FIRST AMENDED  
 COMPLAINT FOR DAMAGES FOR: 1.  
 STATUTORY LIABILITY/ DANGEROUS  
 CONDITION OF PUBLIC PROPERTY  
 2.NEGLIGENCE  
 3. WRONGFUL DEATH;  
 DEMAND FOR JURY TRIAL**

15 Plaintiffs, Monica Araiza and Ifrain Araiza, file their Complaint against Defendant the State  
 16 of California and does 1 to 100 Inclusive, alleging the following:

**THE PARTIES**

19 1. Plaintiffs, Monica Araiza, and Ifrain Araiza ("Plaintiffs") were at all times relevant hereto  
 20 were, residents in the city of Lemon Grove, California .Further plaintiffs were the parents  
 21 (mother and father of the decedent Selena J Araiza).Selena J Araiza(the decedent ) had no  
 22 children and was not married at the time of this fatal collision. Plaintiffs are the only heir of  
 23 the decedent Selena J Araiza.

25 2. Plaintiffs are informed and believe, and thereon alleges, that at all times mentioned herein  
 26 defendant State of CALIFORNIA (the State") and does 1 to 100 was and is a public entity

28 PLAINTIFFS MONICA AND IFRAIN ARAIZA FIRST AMENDED COMPLAINT FOR DAMAGES FOR:  
 1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF PUBLIC PROPERTY 2.NEGLIGENCE  
 3. WRONGFUL DEATH; DEMAND FOR JURY TRIAL - 1

1 authorized to conduct business, including supervising and administering roads, roadways,  
 2 traffic conditions, intersections, intersection controls and all other highway and roadway  
 3 issues within the State of California. This includes, but is not limited to, control of the State  
 4 Route 1 Road approximately 0.5 miles south of Santa Rosa Road. (Subject Road")

5  
 6 3. Plaintiff is ignorant of the true names and capacities of Defendants sued herein as Does 1  
 7 to 100 Inclusive, and therefore sues these Defendants by such fictitious names. Plaintiff will  
 8 Amend this complaint to allege their true names and capacities when ascertained. Plaintiff is  
 9 informed and believes and based thereon alleges that each of these fictitiously named  
 10 defendants are responsible in some manner for the occurrences herein alleged, and that  
 11 Plaintiff's daughter's death alleged were proximately caused by the aforementioned  
 12 defendants.

13  
 14 4. Plaintiff is informed and believes and based thereon alleges that at all times material herein  
 15 each fictitiously named defendant was either the true defendant or the agent and/ or employer  
 16 of each other defendant and in doing the things alleged herein, was acting within the scope  
 17 and purpose of such agency and with the permission and consent of, and their actions were  
 18 ratified by, the other Defendants.

#### 19 20 21 GENERAL ALLEGATIONS

22  
 23 5. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned herein  
 24 "defendant" State of CALIFORNIA (the State") and does 1 to 100 was and is a public entity  
 25 authorized to conduct business, including supervising and administering roads, roadways,  
 26 traffic conditions, intersections, intersection controls and all other highway and roadway

27  
 28 PLAINTIFFS MONICA AND IFRAIN ARAIZA FIRST AMENDED COMPLAINT FOR DAMAGES FOR:  
 1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF PUBLIC PROPERTY 2.NEGLIGENCE  
 3. WRONGFUL DEATH; DEMAND FOR JURY TRIAL - 1



1 issues within the State of California. This includes, but is not limited to, control of the State  
2 Route 1 Road approximately 0.5 miles south of Santa Rosa Road .

3 6.. On February 14, 2020 Joseph Hernandez was traveling in his vehicle driving southbound  
4 with passenger Selena Josefina Araiza on State Route 1. As a result of improper merging  
5 lanes which existed at that time on State Route 1 another vehicle driven by Michael A. Hanson  
6 (an employee of the Penitentiary) while traveling on the Northbound on State 1 was unable  
7 to safely merge into traffic and traveled across the median line and collided with Selena  
8 Josefina Araiza vehicle resulting in her death..

9  
10 7. Plaintiff is informed, believes and thereon alleges that at all relevant times hereto,  
11 Defendants STATE of California and Does 1 through 100, inclusive, improperly owned,  
12 operated, managed, designed, planned, engineered, maintained, installed, inspected, repaired  
13 Failed to repair and or controlled the subject road on State Route 1 thereby creating dangerous  
14 conditions and exposing drivers to dangerous condition.  
15

16  
17 **NOTICE OF CLAIM AGAINST THE STATE OF CALIFORNIA**

18 8. Withing the time provided by law, Plaintiff filed a claim with the State of California in full  
19 compliance with the State of California's requirements of government code section 910 et seq..  
20 On or about September 15, 2020, the State of California denied Plaintiff's claim.

21 By reason of the foregoing, Defendants STATE, and Does 1 through 50, inclusive, and each  
22 of them, are liable for, and Plaintiffs are entitled to recover of them, her general, special, actual  
23 and compensatory damages, including, but not limited to, her necessary medical and related  
24 expenses, past, present and future lost earnings, loss of future earning capacity, as well as mental,  
25 emotional and physical pain and suffering, as proven at time of trial. The total amount of Plaintiffs  
26

27 PLAINTIFFS MONICA AND IFRAIN ARAIZA FIRST AMENDED COMPLAINT FOR DAMAGES FOR:  
28 1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF PUBLIC PROPERTY 2.NEGLIGENCE  
3. WRONGFUL DEATH; DEMAND FOR JURY TRIAL - 1

1 damages are presently unknown but is reasonably believed to be in excess of the minimum  
2 jurisdictional limit of this Court.

### 3 FIRST CAUSE OF ACTION

#### 4 **Statutory Liability/Dangerous Condition of Public Property Against Defendants**

5 **STATE, and (DOES 1 through 100, inclusive)**

6  
7 9. Plaintiff repeats, realleges, and incorporates by this reference as though set forth in full  
8 herein all prior allegations of this Complaint.

9  
10 10. Prior to and on February 14, 2020, Defendants STATE, and Does 1 through 100, inclusive,  
11 and/or their management, administrative, designers, planners, engineers, maintenance  
12 personnel, inspectors and/or other employees, staff, agents or contractors, acting within the  
13 course and scope of their duties and/or employment, negligently and improperly owned,  
14 operated, controlled, designed, planned, engineering, maintained, inspected, repaired, and/or  
15 failed to repair, State Route 1 Road approximately 0.5 miles south of Santa Rosa Road,  
16 thereby creating dangerous conditions under *Gov. Code § 830 et seq. and 835* and exposing  
17 drivers to dangerous conditions. Prior to this collision there has been substantial amounts of  
18 complaints and auto collisions near that vicinity as a result of the merging of two lanes into  
19 one. Moreover drivers tend to speed prior to the merger of this two lanes so they can be the  
20 lead vehicle. Further, there was not sufficient visible warning signs regarding the merger of  
21 these two lanes into one. In addition there was inadequate lighting, as this collision occurred  
22 at approximately 6:15 pm in February 14, 2021. There should have been median walls and  
23 or barricades to prohibit cross traffic and if there were such this auto collision may have been  
24 avoided. There was also a lack of warning sign regarding the merging of the two lanes. The  
25  
26  
27

28 PLAINTIFFS MONICA AND IFRAIN ARAIZA FIRST AMENDED COMPLAINT FOR DAMAGES FOR:

1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF PUBLIC PROPERTY 2. NEGLIGENCE  
3. WRONGFUL DEATH; DEMAND FOR JURY TRIAL - 1

witnesses to this collision indicated that there has been a plenty amount of auto collision for a period of time in this vicinity. The STATE undertook to control the Route 1, invited the reliance of motorists on the road and are liable as they created dangerous conditions in doing so. The absence of proper safety measures was done carelessly, negligently, inadequately and improperly and created a hazard, trap and dangerous condition under *Gov. Code § 835*. It also created a peculiar risk and trap. Defendants STATE, and Does 1 through 100, inclusive, should have installed a barricade separating the south and north bound lanes, proper signage, barricades, other safety equipment and devices, warnings, and warning devices on the State Route 1.

11. The collision and the injury and or death was foreseeable as a consequence of this dangerous condition to Defendants STATE, and Does 1 through 50, inclusive, and, yet, they failed to warn (or adequately warn) drivers.

12. The dangerous conditions created a reasonably foreseeable risk of the kind of injuries which were sustained, and (a) a negligent or wrongful act or omission of an employee of Defendants STATE, and Does 1 through 100, inclusive, created the dangerous conditions; and/or (b) Moreover, they had actual or constructive notice of the dangerous conditions and had sufficient time prior to the injury to have taken measures to protect against the dangerous conditions. These dangerous conditions created a substantial risk of injury when the roadway was used with due care by the public generally as drivers oversteer the roadway for a variety of non-negligent circumstances (because of third party negligence, emergencies, mechanical failures and other unforeseen circumstances) and a barricade guardrail (and other appropriate safety measures listed within this complaint) is required to prevent vehicles from crashing

PLAINTIFFS MONICA AND IFRAIN ARAIZA FIRST AMENDED COMPLAINT FOR DAMAGES FOR:  
1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF PUBLIC PROPERTY 2.NEGLIGENCE  
3. WRONGFUL DEATH; DEMAND FOR JURY TRIAL - 1

1 against each other.

2 13. The dangerous conditions and these acts and omissions of Defendants STATE, and Does  
3 1 through 100, inclusive (and their management, administrative, designers, planners,  
4 engineers, maintenance personnel, inspectors and/or other employees, staff, agents or  
5 contractors, acting within the course and scope of their duties), proximately caused Plaintiff's  
6 injuries.  
7

8 14. Further, these dangerous conditions were directly attributable wholly or in substantial part  
9 to a negligent or wrongful act of employees Defendants STATE, and Does 1 through 100,  
10 inclusive, and these employees had the authority and the funds and other means immediately  
11 available to take alternative action which would not have created the dangerous condition, and/or  
12 these employees had the authority and it was his/her/their responsibility to take adequate measures  
13 to protect against the dangerous condition at the expense of the public entity and the funds and  
14 other means for doing so were immediately available to him/her/them, and he/she/they had actual  
15 or constructive notice of the dangerous condition a sufficient time prior to the injury to have taken  
16 measures to protect against the dangerous condition.  
17

18 15. Further, signs, warnings or other devices were necessary to warn of these dangerous conditions  
19 which endangered the safe movement of traffic and which would not be reasonably apparent to,  
20 and would not have been anticipated by, a person exercising due care.  
21

22 16. In addition, Defendants STATE, and Does 1 through 100, inclusive, and their employees  
23 acting within the scope of their employment undertook, gratuitously or for consideration, to avoid,  
24 remedy and/or abate these dangerous conditions. These undertakings and promises were the kind  
25 that they recognized as necessary for the protection of third persons. Defendants STATE, and Does  
26

27 PLAINTIFFS MONICA AND IFRAIN ARAIZA FIRST AMENDED COMPLAINT FOR DAMAGES FOR:

28 1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF PUBLIC PROPERTY 2.NEGLIGENCE  
3. WRONGFUL DEATH; DEMAND FOR JURY TRIAL - 1

1 through 100, inclusive, and their employees acting within the scope of their employment failed to exercise reasonable care in the performance of these undertakings and promises, the failure to exercise reasonable care resulted in physical harm to the third persons; and *either* (a) their carelessness increased the risk of such harm, or (b) the undertaking or promises were to perform a duty that the other owed to the third persons, or (c) the harm was suffered because either the other or the third persons relied on the undertaking.

17. The driver of the other vehicle Michael Asunsion Hanson was employed at the department of corrections. And the plaintiffs are informed and believe that he was in the course and scope of his employment while traveling North on State Route 1. The state of California has a duty to provide and build a safe highway such as route 1 for all of the drivers navigating and to provide adequate signs, barriers separating the North and South lanes to prevent auto collisions such as what has occurred in this instance. Here Michael Asunsion Hanson fully aware that Route 1 Northbound merges from two lanes to one lane attempted to speed up and overtake another vehicle, just prior to the merging. That attempt was unsuccessful and he lost control of his vehicle and went to the Southbound lane, across the median lane and collided with the vehicle Selena Araiza was a passenger and killing her within hours of the collision. Michael Asunsion Hanson passed away within one month as a result of his vehicle colliding with Selena Ariza's vehicle. There was no adequate signs, nor adequate lighting, nor barrier separating Northbound from Southbound. There has been a substantial amount of auto collision occurring in that vicinity. Due to these acts and failures to act and dangerous conditions, Defendants STATE, and Does 1 through 100, inclusive, and their employees are liable for Plaintiff's injuries under the Government Code, including, but not limited to, Sections 815(a), 815.2(a), 815.6, 820(a), , 830(a), 830.8, 835, 835.2, 835.4 and

PLAINTIFFS MONICA AND IFRAIN ARAIZA FIRST AMENDED COMPLAINT FOR DAMAGES FOR:  
 1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF PUBLIC PROPERTY 2.NEGLIGENCE  
 3. WRONGFUL DEATH; DEMAND FOR JURY TRIAL - 1

1 840.2.

2 18. The collision was foreseeable to Defendants STATE, and Does 1 through 100, inclusive, and,  
3 yet, they failed to warn (or adequately warn) drivers. It is believed that notice was actually provided  
4 to Defendants STATE, and Does 1 through 100, inclusive as there has been quite a few collisions  
5 occurring at that vicinity prior to this collision.  
6

7 19. The dangerous conditions created a reasonably foreseeable risk of the kind of injuries which  
8 were sustained, and (a) a negligent or wrongful act or omission of an employee of Defendants  
9 STATE, and Does 1 through 100, inclusive, created the dangerous conditions; and/or (b) they had  
10 actual or constructive notice of the dangerous conditions a sufficient time prior to the injury to  
11 have taken measures to protect against the dangerous conditions. These dangerous conditions  
12 created a substantial risk of injury when the roadway was used with due care by the public  
13 generally as drivers who are going at 55 MPH on Route 1 have to merge into one lane traffic with  
14 poor lighting, and other improper roadway route for a variety of non-negligent circumstances  
15 (because of third party negligence, emergencies, mechanical failures and other unforeseen  
16 circumstances) and a barricade is required to prevent vehicles from falling/crashing to each other..  
17

18 20. The dangerous conditions and these acts and omissions of Defendants STATE, and Does 1  
19 through 100, inclusive (and their management, administrative, designers, planners, engineers,  
20 maintenance personnel, inspectors and/or other employees, staff, agents or contractors, acting  
21 within the course and scope of their duties), proximately caused Plaintiff's injuries and death.  
22

23 21. Further, these dangerous conditions were directly attributable wholly or in substantial part  
24 to a negligent or wrongful act of employees of Defendants STATE, and Does 1 through 100,  
25 inclusive, and these employees had the authority and the funds and other means immediately  
26

27 PLAINTIFFS MONICA AND IFRAIN ARAIZA FIRST AMENDED COMPLAINT FOR DAMAGES FOR:  
28 1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF PUBLIC PROPERTY 2.NEGLIGENCE  
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1 available to take alternative action which would not have created the dangerous condition, and/or  
 2 these employees had the authority and it was his/her/their responsibility to take adequate measures  
 3 to protect against the dangerous condition at the expense of the public entity and the funds and  
 4 other means for doing so were immediately available to him/her/them, and he/she/they had actual  
 5 or constructive notice of the dangerous condition and had sufficient time prior to the injury to have  
 6 taken measures to protect against the dangerous condition. The state of California knew that auto  
 7 collision such as this would occur.

9 22. Further, signs, warnings or other devices were necessary to warn of these dangerous conditions  
 10 which endangered the safe movement of traffic and which would not be reasonably apparent to,  
 11 and would not have been anticipated by, a person exercising due care.

13 23. Further, Defendants STATE, and Does 1 through 100, inclusive, and their employees acting  
 14 within the scope of their employment undertook, gratuitously or for consideration, to avoid,  
 15 remedy and/or abate these dangerous conditions. These undertakings and promises were the kind  
 16 that they recognized as necessary for the protection of third persons. Defendants STATE, and  
 17 Does 1 through 100, inclusive, and their employees acting within the scope of their employment  
 18 failed to exercise reasonable care in the performance of these undertakings and promises, the  
 19 failure to exercise reasonable care resulted in physical harm to the third persons; and *either* (a)  
 20 their carelessness increased the risk of such harm, or (b) the undertaking or promises were to  
 21 perform a duty that the other owed to the third persons, or (c) the harm was suffered because either  
 22 the other or the third persons relied on the undertaking.

25 24. Due to these acts and failures to act and dangerous conditions, Defendants STATE, and

26 Does 1 through 100, inclusive, and their employees are liable for Plaintiff's injuries under the

28 PLAINTIFFS MONICA AND IFRAIN ARAIZA FIRST AMENDED COMPLAINT FOR DAMAGES FOR:

1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF PUBLIC PROPERTY 2.NEGLIGENCE  
 3. WRONGFUL DEATH; DEMAND FOR JURY TRIAL - 1



Government Code, including, but not limited to, Sections 815 (a), 815.2(a), 815.6, 820(a), 830(a), 830.8, 835, 835.2, 835.4 and 840.2.

## **SECOND CAUSE OF ACTION**

### **(Negligence Against DOES 1 - 100 inclusive)**

25. Plaintiffs repeats, realleges, and incorporates by this reference as though set forth in full herein all prior allegations of this Complaint.

26. Plaintiff is informed and believes, and thereon alleges, that at said time and place at or near the subject location, Defendant DOES 1 through 100, inclusive, so negligently and improperly owned, operated, controlled, designed, planned, engineering, maintained, inspected, installed, repaired, and/or failed to repair, State Route 1 approximately 0.5 miles South of Santa Rosa Rd. so as to cause fatal injury to Plaintiff's daughter. Thereby proximately causing the herein described wrongful death and damages to Plaintiffs Selena Josefina Araiza.

27. Defendant DOES 1 through 100, inclusive, and/or their management, administrative, designers, planners, engineers, maintenance personnel, inspectors and/or other employees, staff, agents or contractors, acting within the course and scope of their duties and through negligent or wrongful acts or omissions created, or allowed to be created, a dangerous condition. The installation, maintenance, repair, operation, monitoring and/or control of State Route 1 were done negligently, inadequately and improperly and created a hazard, trap and dangerous condition. It also created a peculiar risk and trap as Defendants Does 1 through 100, inclusive, should have installed signal lights, and warning signs letting drivers know that the lanes were merging, barricades, other safety equipment and devices, warnings, and warning devices on the road on State Route 1.

28. As a direct and proximate result of the conduct of Defendant DOES 1 through 100, inclusive,

PLAINTIFFS MONICA AND IFRAIN ARAIZA FIRST AMENDED COMPLAINT FOR DAMAGES FOR:  
1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF PUBLIC PROPERTY 2.NEGLIGENCE  
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are liable for, and Plaintiffs are entitled to recover of them, her general, special, actual and compensatory damages, including, but not limited to, her necessary medical and related expenses, past, present and future lost earnings, loss of future earning capacity, as well as mental, emotional and physical pain and mental suffering, as proven at time of trial. The total amount of Plaintiffs damages is presently unknown but is reasonably believed to be in excess of the minimum jurisdictional limit of this Court.

**THIRD CAUSE OF ACTION: WRONGFUL DEATH Against Defendants**

**STATE, and (DOES 1 through 100, inclusive)**

29. PLAINTIFF re-alleges paragraphs 1 through 28, inclusive, and incorporates them herein by reference as though set forth in full.

30. As a direct and proximate of each DEFENDANTS' actions or inactions, carelessness, recklessness, wantonness, and unlawfulness, PLAINTIFF suffered fatal injuries.

31. As a further direct and proximate result of each DEFENDANTS actions or inactions, carelessness, recklessness, wantonness, and unlawfulness, PLAINTIFF has suffered economic damages, including but not limited to monetary contributions and financial support from PLAINTIFF, loss of gifts or benefits, household services, noneconomic damages, including but not limited to being deprived of the love, affection, solace, companionship, society, moral support, assistance, protection, training and guidance, consortium, services, comfort, care, counsel and advice of PLAINTIFF, and any other damages as permitted by law.

**REQUEST FOR JURY TRIAL**

Plaintiffs hereby requests a trial by jury on all claims for relief alleged in, and on all issues raised by, this Complaint.

PLAINTIFFS MONICA AND IFRAIN ARAIZA FIRST AMENDED COMPLAINT FOR DAMAGES FOR:  
1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF PUBLIC PROPERTY 2.NEGLIGENCE  
3. WRONGFUL DEATH; DEMAND FOR JURY TRIAL - 1

**PRAYER**

WHEREFORE, Plaintiff demands judgment against Defendants as follows:

1. For an award of Plaintiffs general, special, actual and compensatory damages as proven at time of trial, with interest thereon according to law;
2. For an award of the costs incurred by Plaintiffs in bringing and maintaining this action;
3. For such other and further relief which this Court deems just and proper.

DATED: July 6, 2021

By: Law Office of Isaac Toveg PLC

/S/ ISAAC TOVEG

Isaac Toveg, Attorney

PLAINTIFFS MONICA AND IFRAIN ARAIZA FIRST AMENDED COMPLAINT FOR DAMAGES FOR:  
1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF PUBLIC PROPERTY 2.NEGLIGENCE  
3. WRONGFUL DEATH; DEMAND FOR JURY TRIAL - 1

**PROOF OF SERVICE**

I, the undersigned, say: I am over 18 years of age, employed in the County of Los Angeles, California, in which the within-mentioned service occurred; and that I am not a party to the subject case. My business address is 2600 West Olive Avenue, 5<sup>th</sup> Floor, Burbank, California 91505.

On July 7<sup>th</sup> 2021, I served the following document(s):  
FIRST AMENDED COMPLAINT

To the following :  
The State of California  
Catherine.takayama@dot.ca.gov

( ) BY MAIL. I am familiar with this firm's practice of collection and processing correspondence for mailing with the United States Postal Service, and that the correspondence shall be deposited with the United States Postal Service this same day in the ordinary course of business pursuant to Code of Civil Procedure, §1013a.

( ) BY FAX. A copy of said document(s) were delivered by facsimile transmission to the addressee pursuant to Code of Civil Procedure §1013(e):

( X ) BY Email. I caused said document(s) to be delivered electronically to the addressee pursuant to Code of Civil Procedure §1011.

I declare under the penalty of perjury, under the laws of the State of California that the foregoing is true and correct. Executed this 07/07/ 2021, in Burbank, CA 91505.

Brittainy Caudillo  
/S/ Brittainy Caudillo  
Declarant

PLAINTIFFS MONICA AND IFRAIN ARAIZA FIRST AMENDED COMPLAINT FOR DAMAGES FOR:  
1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF PUBLIC PROPERTY 2.NEGLIGENCE  
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**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA BARBARA**

Dated and Entered:	07/13/2021	Time:	8:30 AM
Judicial Officer:	Timothy J Staffel		
Deputy Clerk:	Tanya Perez	Dept:	SM3
Deputy Sheriff:	Bob (Robert) Prescott		
Court Reporter:	Michele McNeil	Case No:	21CV01049

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**Monica Araiza vs The State of California et al**

**Parties Present:**

Toveg, Isaac	Attorney for Plaintiff, via Zoom
Mickle, Brandon	Attorney for Defendant The State of California, via Zoom

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**NATURE OF PROCEEDINGS: Case Management Conference**

The Court states an amended complaint was filed on 7/7/2021 and inquires if this filing took care of the Motion to Strike and Demurrer. Mr. Mickle represents he has not been served with the amended complaint yet. Mr. Toveg requests a 60-day continuance. A discussion is held.

**THE COURT MAKES THE FOLLOWING ORDERS:**

This matter is continued to 10/26/2021 at 8:30 a.m. in Department SM3.

Counsel waives notice.

DARREL E. PARKER, EXECUTIVE OFFICER

Minutes Prepared by:

Tanya Perez, Deputy

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA BARBARA</b> STREET ADDRESS: 312-C East Cook Street CITY AND ZIP CODE: Santa Maria CA 93454 BRANCH NAME: Cook	<b>FOR COURT USE ONLY</b> <b>SUPERIOR COURT OF CALIFORNIA</b> <b>COUNTY OF SANTA BARBARA</b>  <b>JUL 13 2021</b> Darrel E. Parker, Executive Officer BY <u>J. Hernandez</u> J. Hernandez, Deputy Clerk
CAPTION: <b>Monica Araiza vs The State of California et al</b>	CASE NUMBER: <b>21CV01049</b>

### CASE MANAGEMENT CONFERENCE ORDER

A case management conference was conducted in this case on 07/13/2021 before the undersigned judge. At the conclusion of the conference, **THE COURT ORDERED THE FOLLOWING:**  
**(Only checked boxes apply)**

1. ☒ The Court finds that this case is **not** ready for trial setting at this time and sets this case for another Case Management Conference on 10/26/2021 at 8:30 a.m. in Department SM3.
2. ☐ The Court sets this case for a hearing on an Order to Show Cause on \_\_\_\_\_ at 8:30 a.m. in this department on why the Court should not dismiss the case for failure to timely file a Case Management Conference Statement, timely serve the defendants, appear at the conference and/or pay sanctions imposed by the Court.
3. ☐ All parties necessary to the disposition of the case have been served and any un-served parties are hereby dismissed.
4. ☐ The Court finds that the amount in controversy in this case is **under \$50,000**. The parties will be assigned a Mediator by the CADRe director and are ordered to complete a CADRe Limited Mediation, at no charge to the parties, no later than \_\_\_\_\_.
5. ☐ The Court finds that the amount in controversy in this case is **over \$50,000**. The parties are ordered to attend a further case management orientation and early settlement session (**CMADRESS**) with a court-approved Special Master/ Mediator appointed by the CADRe director. **There will be no fees charged by the assigned Special Master/ Mediator for the required attendance time at this conference which will be at least 90 minutes and no more than 2 hours, at the option of the Special Master/Mediator.** Following the conference, the parties may elect to continue additional mediation with the Special Master by making separate arrangements for additional time at the Mediator's private rates.

The parties are charged with the responsibility of setting up the orientation session, which must be held within **ninety** days of the date of this order.

If the parties need additional time to hold the CMADRESS session, they should present to the Mandatory Settlement Conference Judge a stipulation setting forth good cause for the continuance.

6. ☐ The parties hereby stipulate that they have already voluntarily agreed to mediate this case with \_\_\_\_\_ and the mediation process will be completed by \_\_\_\_\_.
7. ☐ To confirm that the CADRe Limited Mediation, CMADRESS or the stipulated private mediation session was held, an Order to Show Cause hearing will be held at the time of the **Mandatory Settlement Conference** to determine whether sanctions should be imposed on either or both parties for failure to attend or participate in these programs. The parties should file with the Court a notice that the session was held as required by this order to avoid the OSC hearing.

**Attendance at the orientation session and all other mediation sessions shall be governed by California Rules of Court, Rule 3.894 and Local Rule 1102(f).**

Name of case:  
Monica Araiza vs The State of California et al

Case Number  
21CV01049

8. ☐ All parties must timely file any law and motion matters so that these motions may be heard prior to the Mandatory Settlement Conference. All depositions of non-expert witnesses must be completed by the date set for the Mandatory Settlement Conference. All interrogatories and document production discovery must be completed prior to the Mandatory Settlement Conference. Any defense medical examination of the plaintiff and the report and/or deposition of the defense examining physician, and the identity of experts must be disclosed prior to the Mandatory Settlement Conference.

9. ☐ A Mandatory Settlement Conference is set for **8:30 a.m.** on \_\_\_\_\_ in **DEPARTMENT** \_\_\_\_\_. Settlement conference statements are to be filed by each party at least **5 court days** prior to the conference or sanctions will be imposed. **ALL PARTIES NECESSARY TO EFFECT A SETTLEMENT MUST BE PRESENT AT THIS CONFERENCE.**

10. ☐ This case is set for trial on \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m. in this department.

11. ☐ \_\_\_\_\_ request(s) a jury trial. All other parties waive a jury trial. Estimated time for trial is \_\_\_\_\_ days.  
Plaintiff Trial Counsel will be \_\_\_\_\_  
Defense Trial Counsel will be \_\_\_\_\_  
Other Trial Counsel will be \_\_\_\_\_

12. ☐ All dates are vacated, case is **CLOSED** and **DISMISSED** as to all parties.

13. ☐ Counsel for \_\_\_\_\_ is ordered to pay \$100 within 3 court days or shall appear for a hearing on an Order to Show Cause on \_\_\_\_\_ in Department \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m. why sanctions, monetary or otherwise, should not be imposed for failure to file a timely Case Management Statement or for Failure to Serve the Complaint within 60 days. Plaintiff's counsel shall file proof of personal service of this OSC on all parties before the hearing.

14. ☐ Counsel for \_\_\_\_\_ shall pay \$250 within 3 court days or appear for a hearing on an Order to Show Cause on \_\_\_\_\_ in Department \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m. why sanctions, monetary or otherwise, should not be imposed for Failure to Appear at this Case Management Conference. Plaintiff's counsel shall file proof of personal service of this OSC on all parties before the hearing.

15. ☐ Any non-compliance with any of these orders will subject the non-complying party and/or attorney to sanctions.

16. ☐ The Court, after conducting the OSC hearing previously set for this date re sanctions, including dismissal of the entire case for repeated failures to appear, to pay sanctions, file a final judgment or to effect service on the defendants, hereby dismisses the case in its entirety.

17. ☐ Plaintiff attorney will serve a copy of this order on all other parties.

18. ☐ Other orders:

Dated: 07/13/2021



Honorable Timothy J Staffel  
Judge of the Superior Court



ELECTRONICALLY FILED  
 Superior Court of California  
 County of Santa Barbara  
 Darrel E. Parker, Executive Officer  
 9/9/2021 12:15 PM

1 ERIN E. HOLBROOK, Chief Counsel  
 2 G. MICHAEL HARRINGTON, Deputy Chief Counsel By: Miroslava Pena-Bautista, Deputy  
 3 ARDINE ZAZZERON, Assistant Chief Counsel  
 4 CATHERINE TAKAYAMA, Deputy Attorney (SBN 303690)  
 5 Caltrans Legal Division – Bay Area Office  
 111 Grand Avenue, Suite 11-100, Oakland, CA 94612  
 6 **Mail: P.O. BOX 24325, OAKLAND, CA 94623-1325**  
 Telephone: (510) 433-9100, Facsimile: (510) 433-9167

Attorneys for Defendant STATE OF CALIFORNIA,  
 acting by and through the DEPARTMENT OF TRANSPORTATION

NO FEE PURSUANT TO GOV'T CODE § 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 FOR THE COUNTY OF SANTA BARBARA

10 MONICA ARAIZA, and IFRAIN ARAIZA,

11 Plaintiffs,

12 vs.

13 THE STATE OF CALIFORNIA, and DOES  
 14 1 TO 100, INCLUSIVE,

15 Defendants.

Case No. 21CV01049

**DECLARATION OF CATHERINE  
 TAKAYAMA IN SUPPORT OF  
 DEFENDANT STATE OF CALIFORNIA'S  
 DEMURRER TO PLAINTIFFS' FIRST  
 AMENDED COMPLAINT (Code of Civ. Pro.  
 § 435.5)**

Date: October 20, 2021  
 Time: 08:30 a.m.  
 Dept.: SM3

ASSIGNED FOR ALL PURPOSES TO HON.  
 TIMOTHY STAFFEL

[Filed concurrently with Motion to Strike  
 Plaintiffs' First Amended Complaint]

Action Filed: March 12, 2021  
 Trial Date: None set

21 I, CATHERINE TAKAYAMA, declare as follows:

22 1. I am an attorney at law, employed by the State of California, Department of  
 23 Transportation (Caltrans). I am licensed to practice in all courts of law in the State of California.  
 24 I have personal knowledge of the facts set forth in this declaration and if called as a witness could  
 25 and would testify as set forth herein.

26 2. On July 29, 2021, I called Plaintiffs' counsel, Isaac Toveg to discuss various  
 27 defects in the First Amended Complaint, including why the pleading is subject to a demurrer. We  
 28

1 did not complete our discussion on this date and Plaintiffs granted Caltrans a two-week extension  
 2 so that we could further meet and confer. We scheduled to meet and confer again on August 3,  
 3 2021, at 2:00 p.m.

4 3. On August 3, 2021, I called Plaintiffs' counsel at our scheduled meeting time,  
 5 but counsel was unavailable. Plaintiffs' counsel returned my call a few hours later, but I was  
 6 unavailable at that time.

7 4. On August 12, 2021, I called Plaintiffs' counsel, but no one was available to  
 8 answer the phone.

9 5. On August 13, 2021, I called Plaintiffs' counsel and left a message requesting a  
 10 return phone call. I also emailed counsel regarding my efforts to reach him.

11 6. On August 13, 2021, Plaintiffs' counsel sent an email requesting I call him on  
 12 Monday, August 16, 2021.

13 7. On August 16, 2021, I called Plaintiffs' counsel two times and left voicemails  
 14 requesting a return phone call. I emailed Plaintiffs' counsel informing him I would be moving  
 15 forward with the demurrer and motion to strike.

16 8. On August 16, 2021, I received a phone call from Plaintiffs' counsel at 8:30 p.m.  
 17 I was unavailable to take his call outside of normal business hours. Plaintiffs' counsel sent an  
 18 email stating that he was out of town due to an emergency.

19 9. On August 18, 2021, Plaintiffs' counsel and I exchanged emails to schedule one  
 20 last attempt to meet and confer. We scheduled a meeting for August 19, 2021. Plaintiffs'  
 21 counsel agreed to a two-week extension until September 7, 2021, for Caltrans to file its  
 22 responsive pleading.

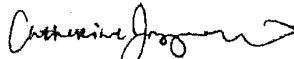
23 10. On August 19, 2021, counsel for Caltrans spoke telephonically with counsel for  
 24 Plaintiffs, further explaining Caltrans' position regarding the portions of the First Amended  
 25 Complaint subject to a demurrer. The parties met and conferred in good faith but were unable  
 26 to reach an agreement resolving the objections raised by the demurrer.

27 ///

28 ///

1 I declare under penalty of perjury under the laws of the State of California that the  
2 foregoing is true and correct.

3  
4 Executed this 7th day of September, 2021 in Irvine, California.

5  
6   
7 Catherine Takayama – Declarant

Case Name: *Monica Araiza v. State of California, et al.*  
Case No.: Santa Barbara County Superior Court Case No. 21CV01049

**PROOF OF SERVICE**

I, the undersigned, say: I am, and was at all times herein mentioned, employed in the City of Oakland, and County of Alameda, over the age of 18 years and not a party to the within action or proceedings; that my business address is 111 Grand Avenue, Suite 11-100, Oakland, California 94612; Mail: P.O. Box 24325, Oakland, CA 94623-1325; that on the date set forth below, I served the within:

**DECLARATION OF CATHERINE TAKAYAMA IN SUPPORT OF  
DEFENDANT STATE OF CALIFORNIA'S DEMURRER ON  
PLAINTIFF'S FIRST AMENDED COMPLAINT**

on all interested parties in said action by:

— (MAIL) By placing a true copy thereof enclosed in a sealed envelope for each person(s) named below, addressed as set forth immediately below the respective name(s), with postage thereon fully prepaid as first-class mail. I deposited the same in a mailing facility regularly maintained by the United States Post Office for the mailing of letter(s) at my above-stated place of business.

X (BY ELECTRONIC-MAIL ONLY) by attaching a copy of the document(s) in PDF format sent to the email addresses of the parties listed below, pursuant to stipulation. No hard copies will follow.

— (FACSIMILE TRANSMITTAL) By faxing a true copy thereof as indicating by the address(es), and facsimile telephone number(s) for each person(s) named below as set forth immediately below the respective name(s) pursuant to this Proof of Service.

— (OVERNIGHT DELIVERY) By placing a true copy thereof, enclosed in a sealed envelope, to be delivered by the express mail carrier, to the address(es) shown below.

Isaac Toveg, Esq.  
Law Offices of Isaac Toveg  
2600 W. Olive Ave., 5<sup>th</sup> Floor  
Burbank, CA 91505  
isaactoveg@aol.com

*Attorney for Plaintiff, Monica Araiza*

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 7, 2021 at San Francisco, California.

  
CORAZON PILARE, Declarant

ELECTRONICALLY FILED  
 Superior Court of California  
 County of Santa Barbara  
 Darrel E. Parker, Executive Officer  
 9/9/2021 12:15 PM

By: Miroslava Pena-Bautista, Deputy

1 ERIN E. HOLBROOK, Chief Counsel  
 G. MICHAEL HARRINGTON, Deputy Chief Counsel  
 2 ARDINE ZAZZERON, Assistant Chief Counsel  
 CATHERINE TAKAYAMA, Deputy Attorney (SBN 303690)  
 3 Caltrans Legal Division – Bay Area Office  
 111 Grand Avenue, Suite 11-100, Oakland, CA 94612  
 4 **Mail: P.O. BOX 24325, OAKLAND, CA 94623-1325**  
 Telephone: (510) 433-9100, Facsimile: (510) 433-9167  
 5

Attorneys for Defendant STATE OF CALIFORNIA,  
 6 acting by and through the DEPARTMENT OF TRANSPORTATION

NO FEE PURSUANT TO GOV'T CODE § 6103

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA

8 FOR THE COUNTY OF SANTA BARBARA

9  
 10 MONICA ARAIZA, and IFRAIN ARAIZA,

Case No. 21CV01049

11 Plaintiffs,

12 vs.

13 THE STATE OF CALIFORNIA, and DOES  
 14 1 TO 100, INCLUSIVE,

15 Defendants.  
 16

**MEMORANDUM OF POINTS AND  
 AUTHORITIES IN SUPPORT OF  
 DEFENDANT STATE OF CALIFORNIA'S  
 MOTION TO STRIKE PLAINTIFFS' FIRST  
 AMENDED COMPLAINT (Code of Civ. Pro.  
 §§ 435-437.)**

Date: October 20, 2021  
 Time: 08:30 a.m.  
 Dept.: SM3

17 ASSIGNED FOR ALL PURPOSES TO HON.  
 TIMOTHY STAFFEL

18 [Filed concurrently with Demurrer to Plaintiffs'  
 19 First Amended Complaint]

20 Action Filed: March 12, 2021  
 Trial Date: None set

21  
 22 Defendant the State of California, by and through the Department of Transportation  
 23 (Caltrans) submits the following memorandum of points and authorities in support of its Motion  
 24 to Strike Plaintiffs' First Amended Complaint.

25 **I. INTRODUCTION**

26 This lawsuit arises out of a motor vehicle accident that occurred on February 14, 2020. A  
 27 vehicle traveling on northbound State Route 1, crossed over "the median line and collided with"  
 28 the vehicle in which Plaintiffs' decedent, Selena Araiza, was a passenger traveling southbound on

1

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEFENDANT STATE OF CALIFORNIA'S  
 MOTION TO STRIKE PLAINTIFFS' FIRST AMENDED COMPLAINT

1 State Route 1. (Plaintiffs' First Amended Complaint, ¶ 6.) Portions of the Plaintiffs' First  
2 Amended Complaint should be stricken as improper and irrelevant.

## 3 II. ALLEGATIONS SUBJECT TO THE MOTION TO STRIKE

4 The State seeks an order striking the following allegations of the First Amended  
5 Complaint:

6 Paragraph	Lines	Words/Phrases
7 17	3-4	815.2(a), 815.6, 820(a)
8 24	5-6	815.2(a), 815.6, 820(a), 840.2.

## 10 III. STANDARD FOR MOTION TO STRIKE

11 Code of Civil Procedure section 436, provides in pertinent part:

12 The court may, upon a motion made pursuant to section 435, or at any time in its  
13 discretion, and upon terms it deems proper;

14 (a) Strike out any irrelevant, false or improper matters asserted in any pleadings.

15 The grounds for moving to strike must appear on the face of the pleading or by way of  
16 judicial notice. (Code Civ. Proc., § 437.) "Motion to strike may be used to attack an entire  
17 pleading, such as a complaint, and various subparts of a pleading, such as a cause of action or  
18 pleaded count, as well as component paragraphs, words or phrases." (*Okorie v. Los Angeles*  
19 *Unified School Dist.* (2017) 14 Cal.App.5th 574, 589.)

## 20 IV. ARGUMENT

### 21 A. The Court should strike Plaintiffs' references to improper and irrelevant statutes 22 under a dangerous condition cause of action.

23 A Motion to Strike may properly be directed against the entire pleading or any part of it.  
24 (Code of Civ. Pro. § 435, subd. (b)(1).) The court may "strike out any irrelevant, false, or  
25 improper matter inserted in any pleading." (Code of Civ. Pro. § 436, subd. (a).) The California  
26 Supreme Court has made clear that Government Code section 835 establishes the exclusive  
27 conditions under which a public entity is liable for injuries caused by a dangerous condition of  
28 public property. (*Zelig v. County of Los Angeles* (2002) 27 Cal. 4th 1112; *Brown v. Poway*

1 *Unified Sch. Dist.* (1993), 4 Cal. 4th 820, 829.) In the first cause of action, Plaintiffs allege  
 2 Defendant is liable for a dangerous condition of public property under Government Code section  
 3 835, but also lists government code sections 815(a), 815.2(a), 815.6, 820(a), and 840.2. (First  
 4 Amended Complaint, ¶¶ 17, 24.) Government Code sections 815.2(a), 815.6, 820(a), and 840.2  
 5 are not proper or relevant under a dangerous condition cause of action and should be stricken.

6 **i. Reference to Government Code Section 815.2 is not proper nor relevant**  
 7 **under a dangerous condition cause of action.**

8 Government Code section 815.2(a) provides that “[a] public entity is liable for injury  
 9 proximately caused by an act or omission of an employee of the public entity within the scope of  
 10 his employment if the act or omission would, apart from this section, have given rise to a cause of  
 11 action against that employee or his personal representative.” Public entity liability for property  
 12 defects is not governed by the general rule of vicarious liability provided in section 815.2, but  
 13 rather by the provisions in sections 830 to 835.4 of the Government Code. (*Van Kempen v.*  
 14 *Hayward Area Park etc. Dist.* (1972) 23 Cal.App.3d 822, 825.) To impose liability under  
 15 respondeat superior on a public entity, the employee must have breached a duty of care owed to  
 16 the plaintiff. (*Zelig, supra*, 27 Cal. 4th at 1131.) When there is no showing that a public  
 17 employee engaged in conduct that would render the employee liable to plaintiff, however, there is  
 18 no basis for imposing vicarious liability on a public entity. (*Ibid.*) The FAC does not include any  
 19 facts imposing a duty of care owed to Plaintiffs or any facts concerning any public employee’s  
 20 conduct that led to Plaintiffs’ injuries. As such, reference to Government Code section 815.2 is  
 21 improper and irrelevant and should be stricken from the first cause of action for dangerous  
 22 condition of public property.

23 **ii. Reference to Government Code Section 815.6 is not proper nor relevant**  
 24 **under a dangerous condition cause of action.**

25 Government Code section 815.4 provides that [a] public entity is liable for injury  
 26 proximately caused by a tortious act or omission of an independent contractor of the public entity  
 27 to the same extent that the public entity would be subject to such liability if it were a private  
 28 person. As discussed above, public entity liability for property defects is not governed by the



1 general rule of vicarious liability. (*Van Kempen, supra*, 23 Cal.App.3d at 825.) Claims based on  
 2 alleged independent contractor liability must be pleaded with specificity including allegations of  
 3 what actions were proximately caused by a tortious act or omission of the independent contractor.  
 4 (*Ibid*; *McCarty v. State of California, Dept. of Transp.* (2008) 164 Cal.App.4th 955, 977.) The  
 5 FAC does not allege with specificity, what, if any acts or omissions were committed by an  
 6 independent contractor that led to Plaintiffs' injuries. Plaintiffs fail to establish liability under  
 7 Government Code section 815.4. As such, reference to Government Code section 815.4 is  
 8 improper and irrelevant and should be stricken from the first cause of action.

9 **iii. Reference to Government Code Section 815.6 is not proper nor relevant**  
 10 **under a dangerous condition cause of action.**

11 Plaintiffs improperly allege Government Code section 815.6 in their first cause of action  
 12 for dangerous condition. Government Code section 815.6 provides:

13 Where a public entity is under a mandatory duty imposed by an enactment that is  
 14 designed to protect against the risk of a particular kind of injury, the public entity  
 15 is liable for an injury of that kind proximately caused by its failure to discharge  
 the duty unless the public entity establishes that it exercised reasonable diligence  
 to discharge the duty. (Gov't Code § 815.6.)

16 When Government Code section 815.6 is alleged, every fact essential to the existence of  
 17 statutory liability should be pleaded with particularity, including the statute claimed to establish  
 18 the duty. (*Searcy v. Hemet Unified School Dist.* (1986) 177 Cal.App.3d 792, 802.) "Duty cannot  
 19 be alleged simply by stating 'defendant had a duty under the law'; that is a conclusion of law, not  
 20 an allegation of fact." (*Ibid.*) Also, "duty" under Government Code section 815.6 does not  
 21 encompass the exercise of discretion in carrying out statutory functions. (See, *Creason v. Dep't of*  
 22 *Health Servs.* (1998) 18 Cal. 4th 623, 635.) Here, Plaintiffs cite no enactment imposing a  
 23 mandatory duty upon the State on the facts at hand. As such, reference to Government Code  
 24 section 815.6 is improper and irrelevant and should be stricken from the first cause of action.

25 **iv. Reference to Government Code Section 840.2 is not proper nor relevant**  
 26 **under a dangerous condition cause of action.**

27 Government Code section 840.2 describes instances in which an employee of a public  
 28 entity is liable for injury caused by a dangerous condition of public property. Plaintiffs fail to

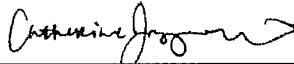
1 allege, what, if any acts or omissions were committed by an employee that led to Plaintiffs'  
 2 injuries, only a conclusory allegation that the State is liable under Government Code section  
 3 840.2. Moreover, Defendant is the public entity employer, not the employee. As such, this  
 4 section does not apply to Moving Defendant, Caltrans. Thus, the reference to section 840.2 is  
 5 irrelevant and improper, and should be stricken from the first cause of action for dangerous  
 6 condition of public property.

## 7 V. CONCLUSION

8 Based on the foregoing, the State respectfully requests that the Court grant Defendant's  
 9 Motion to Strike Plaintiffs' First Amended Complaint.

10  
 11 Dated: September 7, 2021

ERIN E. HOLBROOK  
 G. MICHAEL HARRINGTON  
 ARDINE ZAZZERON  
 CATHERINE TAKAYAMA

13  
 14 By   
 Attorneys for Defendant  
 STATE OF CALIFORNIA, acting by and  
 15 through the Department of Transportation  
 16  
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Case Name: *Monica Araiza v. State of California, et al.*  
Case No.: Santa Barbara County Superior Court Case No. 21CV01049

**PROOF OF SERVICE**

I, the undersigned, say: I am, and was at all times herein mentioned, employed in the City of Oakland, and County of Alameda, over the age of 18 years and not a party to the within action or proceedings; that my business address is 111 Grand Avenue, Suite 11-100, Oakland, California 94612; Mail: P.O. Box 24325, Oakland, CA 94623-1325; that on the date set forth below, I served the within:

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF  
DEFENDANT STATE OF CALIFORNIA'S MOTION TO STRIKE PLAINTIFF'S  
FIRST AMENDED COMPLAINT**

on all interested parties in said action by:

- (MAIL) By placing a true copy thereof enclosed in a sealed envelope for each person(s) named below, addressed as set forth immediately below the respective name(s), with postage thereon fully prepaid as first-class mail. I deposited the same in a mailing facility regularly maintained by the United States Post Office for the mailing of letter(s) at my above-stated place of business.
- ☒ (BY ELECTRONIC-MAIL ONLY) by attaching a copy of the document(s) in PDF format sent to the email addresses of the parties listed below, pursuant to stipulation. No hard copies will follow.
- (FACSIMILE TRANSMITTAL) By faxing a true copy thereof as indicating by the address(es), and facsimile telephone number(s) for each person(s) named below as set forth immediately below the respective name(s) pursuant to this Proof of Service.
- (OVERNIGHT DELIVERY) By placing a true copy thereof, enclosed in a sealed envelope, to be delivered by the express mail carrier, to the address(es) shown below.

Isaac Toveg, Esq. Law Offices of Isaac Toveg 2600 W. Olive Ave., 5 <sup>th</sup> Floor Burbank, CA 91505 <u>isaactoveg@aol.com</u> Attorney for Plaintiff, Monica Araiza	
---	--

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 7, 2021 at San Francisco, California.

  
CORAZON PILARE, Declarant

1 ERIN E. HOLBROOK, Chief Counsel  
 G. MICHAEL HARRINGTON, Deputy Chief Counsel  
 2 ARDINE ZAZZERON, Assistant Chief Counsel  
 CATHERINE TAKAYAMA (SBN 303690)  
 3 California Department of Transportation - Legal Division  
 111 Grand Avenue, Suite 11-100, Oakland, CA 94612-3717  
 4 **Mail: P.O. BOX 24325, OAKLAND, CA 94623-1325**  
 Telephone: (510) 433-9100; Facsimile: (510) 433-9167

ELECTRONICALLY FILED  
 Superior Court of California  
 County of Santa Barbara  
 Darrel E. Parker, Executive Officer  
 9/9/2021 12:15 PM  
 By: Miroslava Pena-Bautista, Deputy

5 Attorneys for Defendant STATE OF CALIFORNIA,  
 6 acting by and through the DEPARTMENT OF TRANSPORTATION

NO FEE PURSUANT TO GOV'T CODE § 6103

7  
 8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF SANTA BARBARA

10 MONICA ARAIZA, and IFRAIN ARAIZA,

Case No. 21CV01049

11 Plaintiffs,

12 vs.

13 THE STATE OF CALIFORNIA, and DOES  
 14 1 TO 100, INCLUSIVE,

15 Defendants.

16 **MEMORANDUM OF POINTS AND  
 17 AUTHORITIES IN SUPPORT OF  
 18 DEFENDANT STATE OF CALIFORNIA'S  
 19 DEMURRER TO PLAINTIFFS' FIRST  
 20 AMENDED COMPLAINT (Code of Civ.  
 21 Pro. § 430.10.)**

Date: October 20, 2021

Time: 08:30 a.m.

Dept.: SM3

ASSIGNED FOR ALL PURPOSES TO HON.  
 TIMOTHY STAFFEL

[Filed concurrently with Motion to Strike  
 Plaintiffs First Amended Complaint]

Action Filed: March 12, 2021

Trial Date: None set

CALIFORNIA DEPARTMENT OF TRANSPORTATION - LEGAL DIVISION  
 111 Grand Avenue, Suite 11-100, Oakland, California 94612  
 Mail: P.O. Box 24325, Oakland, CA 94623-1325  
 Telephone: (510) 433-9100, Facsimile: (510) 433-9167

CALIFORNIA DEPARTMENT OF TRANSPORTATION - LEGAL DIVISION  
 111 Grand Avenue, Suite 11-100, Oakland, California 94612  
 Mail: P.O. Box 24325, Oakland, CA 94623-1325  
 Telephone: (510) 433-9100, Facsimile: (510) 433-9167

## I. INTRODUCTION

Defendant State of California, by and through the Department of Transportation ("Caltrans") generally demurs to the First Amended Complaint filed by Plaintiffs Monica Araiza and Ifraim Araiza ("Plaintiffs"). This lawsuit arises out of a motor vehicle accident that occurred on February 14, 2020. A vehicle driven by Michael Asunsion Hanson, traveling on northbound State Route 1, crossed over "the median line and collided with" the vehicle in which Plaintiffs' decedent, Selena Araiza, was a passenger traveling southbound on State Route 1. (Plaintiffs' First Amended Complaint, ¶ 6.) Plaintiffs allege three causes of action: Dangerous Condition of Public Property against the State of California and DOES 1 – 100 (First Cause of Action), General Negligence against DOES 1-100 (Second Cause of Action), and Wrongful Death against the State of California and DOES 1-100 (Third Cause of Action).

## II. STANDARD FOR A DEMURRER

A complaint must "set forth the essential facts of [plaintiff's] case with reasonable precision and with particularity sufficient to acquaint a defendant with the nature, source and extent of his cause of action." (*Doheny Park Terrace Homeowners Ass'n, Inc. v. Truck Ins. Exchange* (2005) 132 Cal.App.4th 1076, 1099.) "[P]leading conclusions of law does not fulfill this requirement." (*Id.*, at 1098-99.) The pleading must give "notice of the issues sufficient to enable preparation of a defense." (*Doe v. City of Los Angeles* (2007) 42 Cal.4th 531, 549-50; *see, Susman v. City of Los Angeles* (1969) 269 Cal.App.2d 803, 809; *see also, Brenner v. City of El Cajon* (2003) 113 Cal.App.4th 434, 439 [statutory causes of action must be pleaded with particularity].).

A demurrer lies where the court lacks jurisdiction of the subject of the cause of action, where the pleading does not state facts sufficient to constitute a cause of action, and where the pleading is uncertain. (Code Civ. Pro. §430.10.) It is used to challenge defects appearing on the face of the pleading or from matters appearing through judicial notice. (*see generally, Ion Equip. Corp. v. Nelson* (1980) 110 Cal.App.3d 868 (purpose and use of demurrers); Code Civ. Pro., §§ 430.30 and 430.70; *City of Atascadero v. Merrill Lynch, Pierce, Fenner & Smith, Inc.* (1998) 68 Cal.App.4th 445, 459.)

1 “A general demurrer searches the complaint or the particular count to which it is directed, for  
2 any and every failure to state a material fact. In other words, the absence of any allegation essential  
3 to the cause of action makes the complaint vulnerable to a general demurrer.” (*Banerian v.*  
4 *O’Malley* (1974) 42 Cal.App.3d 604, 610.)

5 A demurrer is also appropriate where the pleading is uncertain. (Code Civ. Proc., §  
6 430.10(f).) A demurrer for uncertainty is sustained when defendant cannot reasonably respond  
7 because it cannot determine what issues or claims are directed against defendant. (*Khoury v. Maly’s*  
8 *of California, Inc.* (1993) 14 Cal. App. 4th 612, 616.)

### 9 III. ARGUMENT

#### 10 A. Caltrans’ special demurrer should be sustained because the first cause of action is 11 uncertain and ambiguous as to which State department is being sued.

12 The First Amended Complaint is uncertain and ambiguous as to which State department is  
13 being sued and appears to join a party which is not a proper party to the cause of action for  
14 dangerous condition of public property. Reading the allegations of the First Amended Complaint  
15 and the first cause of action, it is apparent that Plaintiffs are asserting that the State of California by  
16 and through the Department of Transportation (“Caltrans”), and the State of California by and  
17 through the Department of Corrections is responsible in some manner for the dangerous condition of  
18 public property at the subject accident location. Plaintiffs allege “defendant State of CALIFORNIA  
19 (the State) and does 1 to 100 was and is a public entity authorized to conduct business, including  
20 supervising and administering roads, roadways, traffic conditions, intersections, intersection controls  
21 and all other highway and roadway issues within the State of California. This includes, but is not  
22 limited to, control of the State Route 1 Road approximately 0.5 miles south of Santa Rosa Road.”  
23 Plaintiffs go on to allege Michael Asunsion Hanson, the driver of the vehicle which collided with  
24 decedent Selena Araiza’s vehicle, was employed by the Department of Corrections and was acting  
25 within in the course and scope of his employment at the time of the collision. (Plaintiffs’ First  
26 Amended Complaint, ¶ 17.)

27 It is well established that State departments are separate and distinct entities. (*see People v.*  
28 *Superior Court (Barrett)* (2000) 80 Cal.App.4th 1305, 1309; *Lockyer v. Superior Court* (2004) 122  
Cal. App. 4th 1060, 1078.) Each agency or department of the state is established as a separate entity,

CALIFORNIA DEPARTMENT OF TRANSPORTATION - LEGAL DIVISION  
 111 Grand Avenue, Suite 11-100, Oakland, California 94612  
 Mail: P.O. Box 24325, Oakland, CA 94623-1325  
 Telephone: (510) 433-9100, Facsimile: (510) 433-9167

under various state laws or constitutional provisions. (see i.e. Bus. & Prof.Code, § 100 [establishing Dept. Consumer Affairs]; Cal. Const., art. VII, § 2 [establishing State Personnel Bd].) Therefore, it is incumbent upon the Plaintiffs to plead a cause of action against Caltrans or the Department of Corrections, or both and not simply the “State of California.” The dangerous condition cause of action is properly pled as to Caltrans only as Caltrans is vested with “full possession and control” of the State’s freeways and highways. (Sts & Hwy Code § 90.) There are no separate causes of actions against the Department of Corrections. The Caltrans Legal Division is only authorized to represent Caltrans in litigation. If the Department of Corrections is a party defendant, it will have to appear separately through its own counsel. In the course of this litigation, disputes may arise if Plaintiffs seek discovery against the State of California and then expect Caltrans to obtain documents from the Department of Corrections or other departments when Caltrans has no control over documents from other nonparty departments. Plaintiffs should be required to amend their pleadings to alleviate the uncertainty and ambiguity when they name “the State of California” as the only defendant, but then assert that actions of its various departments form the basis of the dangerous condition cause of action. It is appropriate to clarify that uncertainty at the pleading stage and is easily accomplished by naming the proper party defendant and/or allege separate causes of action against each, if any viable ones exist. Thus, the demurrer to the first cause of action should be sustained.

**B. Caltrans’ general demurrer should be sustained because the Second and Third Causes of Action fail to allege causes of action against Caltrans.**

**1. The Second Cause of Action is subject to a demurrer because it fails to state a statutory basis for liability against Caltrans.**

Tort liability for public entities in California are governed by the California Tort Claims Act (Gov. Code, § 810, *et seq.*). “A public entity is not liable for an injury, whether such injury arises out of an act or omission of the public entity or a public employee or any other person” except as otherwise provided by statute. (Gov. Code, § 815(a).) The enactment of Government Code section 815 as part of the California Tort Claims Act abolished all common law tort liability for public entities and limited such liability to that specifically imposed by statute. (Gov. Code, § 815 and Legislative Comm. Comment thereto; see also, *Tolan v. State of California ex rel. Dept. of Transportation* (1979) 100 Cal.App.3d 980, 986.) “Thus, the intent of the act is not to expand the



CALIFORNIA DEPARTMENT OF TRANSPORTATION - LEGAL DIVISION  
 111 Grand Avenue, Suite 11-100, Oakland, California 94612  
 Mail: P.O. Box 24325, Oakland, CA 94623-1325  
 Telephone: (510) 433-9100, Facsimile: (510) 433-9167

rights of plaintiffs in suits against governmental entities, but to confine potential governmental liability to rigidly delineated circumstances.” (*Williams v. Horvath* (1976) 16 Cal.3d 834, 838.)

For example, in *Hilts v. County of Solano* (1968) 265 Cal.App.2d 161, the court held that giving instructions on both negligence and statutory liability of a public entity under the Government Code for a dangerous condition of public property was error because the liability of the public entity cannot rest on a theory of common law negligence. (*Hilts v. County of Solano* (1968) 265 Cal.App.2d 161, 169-170.) Since Government Code Section 815 provides that a public entity cannot be liable on the theory of common law negligence, a verdict against a public entity must be overturned if it is erroneously based on such a theory. (*Id.* at p. 171.)

Here, Plaintiffs’ Second Cause of Action alleges general negligence against “DOES 1 - 100 inclusive.” Plaintiffs’ allege the “installation, maintenance, repair, operation, monitoring and/or control of State Route 1 were done negligently, inadequately and improperly and created a hazard, trap and dangerous condition.” (Plaintiffs’ First Amended Complaint, ¶ 27.) Clearly, the allegations in the Second Cause of Action relate to the condition of the roadway, whereby Caltrans would be the proper defendant. Plaintiffs’ have alleged a dangerous condition cause of action against the State in their First Cause of Action. Plaintiffs’ cannot disregard the requirements of Government Code section 815 by alleging common law negligence against “DOE” defendants.

Any liability against a public entity must be based on statute, but the Second Cause of Action fails to allege a statutory basis for tort liability against Caltrans. As a public entity, Caltrans is not liable for general negligence. Accordingly, Defendants’ demurrer to the Second Cause of Action should be sustained without leave to amend.

**2. The Third Cause of Action is subject to a demurrer because it fails to state a statutory basis for liability against Caltrans.**

As discussed supra, a public entity cannot be liable for common law theories of liability. Here, Plaintiffs’ Third Cause of Action for wrongful death fails to allege a statutory basis for liability and is barred as a matter of law. Therefore, Defendant’s demurrer to the Third Cause of Action should be sustained without leave to amend.

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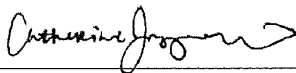
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1 **III. CONCLUSION**

2 Based on the foregoing, Caltrans respectfully requests Defendant's demurrer be sustained  
 3 with leave to amend as to the First Cause of action. Defendant further requests Caltrans' demurrer  
 4 be sustained without leave to amend as to the Second and Third Causes of Actions because Plaintiffs  
 5 have not alleged a specific statute imparting liability upon Caltrans and therefore this Court should  
 6 sustain this Demurrer without leave to amend. (*Lawrence v. Bank of America* (1985) 163  
 7 Cal.App.3d 431, 436 ("Leave to amend should be denied where the facts are not in dispute and the  
 8 nature of the claim is clear, but no liability exists under substantive law").)

9  
 10 Dated: September 7, 2021

ERIN E. HOLBROOK  
 G. MICHAEL HARRINGTON  
 ARDINE ZAZZERON  
 CATHERINE TAKAYAMA

11 By   
 12 Attorneys for Defendant  
 13 STATE OF CALIFORNIA, acting by and  
 14 through the Department of Transportation  
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CALIFORNIA DEPARTMENT OF TRANSPORTATION - LEGAL DIVISION  
 111 Grand Avenue, Suite 11-100, Oakland, California 94612  
 Mail: P.O. Box 24325, Oakland, CA 94623-1325  
 Telephone: (510) 433-9100, Facsimile: (510) 433-9167

Case Name: *Monica Araiza v. State of California, et al.*  
Case No.: Santa Barbara County Superior Court Case No. 21CV01049

**PROOF OF SERVICE**

I, the undersigned, say: I am, and was at all times herein mentioned, employed in the City of Oakland, and County of Alameda, over the age of 18 years and not a party to the within action or proceedings; that my business address is 111 Grand Avenue, Suite 11-100, Oakland, California 94612; Mail: P.O. Box 24325, Oakland, CA 94623-1325; that on the date set forth below, I served the within:

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF  
DEFENDANT STATE OF CALIFORNIA'S DEMURRER TO PLAINTIFF'S  
FIRST AMENDED COMPLAINT**

on all interested parties in said action by:

- (MAIL) By placing a true copy thereof enclosed in a sealed envelope for each person(s) named below, addressed as set forth immediately below the respective name(s), with postage thereon fully prepaid as first-class mail. I deposited the same in a mailing facility regularly maintained by the United States Post Office for the mailing of letter(s) at my above-stated place of business.
- X (BY ELECTRONIC-MAIL ONLY) by attaching a copy of the document(s) in PDF format sent to the email addresses of the parties listed below, pursuant to stipulation. No hard copies will follow.
- (FACSIMILE TRANSMITTAL) By faxing a true copy thereof as indicating by the address(es), and facsimile telephone number(s) for each person(s) named below as set forth immediately below the respective name(s) pursuant to this Proof of Service.
- (OVERNIGHT DELIVERY) By placing a true copy thereof, enclosed in a sealed envelope, to be delivered by the express mail carrier, to the address(es) shown below.

Isaac Toveg, Esq.  
Law Offices of Isaac Toveg  
2600 W. Olive Ave., 5<sup>th</sup> Floor  
Burbank, CA 91505  
isaactoveg@aol.com

*Attorney for Plaintiff, Monica Araiza*

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 7, 2021 at San Francisco, California.

  
CORAZON PILARE, Declarant

CALIFORNIA DEPARTMENT OF TRANSPORTATION - LEGAL DIVISION  
 111 Grand Avenue, Suite 11-100, Oakland, California 94612  
 Mail: P.O. Box 24325, Oakland, CA 94623-1325  
 Telephone: (510) 433-9100, Facsimile: (510) 433-9167

1 ERIN E. HOLBROOK, Chief Counsel  
 2 G. MICHAEL HARRINGTON, Deputy Chief Counsel  
 3 ARDINE ZAZZERON, Assistant Chief Counsel  
 4 CATHERINE TAKAYAMA, Deputy Attorney (SBN 303690)  
 5 Caltrans Legal Division – Bay Area Office  
 111 Grand Avenue, Suite 11-100, Oakland, CA 94612  
 6 Mail: P.O. BOX 24325, OAKLAND, CA 94623-1325  
 Telephone: (510) 433-9100, Facsimile: (510) 433-9167

Attorneys for Defendant STATE OF CALIFORNIA,  
 acting by and through the DEPARTMENT OF TRANSPORTATION

ELECTRONICALLY FILED  
 Superior Court of California  
 County of Santa Barbara  
 Darrel E. Parker, Executive Officer  
 9/9/2021 12:15 PM  
 By: Miroslava Pena-Bautista, Deputy

NO FEE PURSUANT TO GOV'T CODE § 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 FOR THE COUNTY OF SANTA BARBARA

10 MONICA ARAIZA, and IFRAIN ARAIZA,

11 Plaintiffs,

12 vs.

13 THE STATE OF CALIFORNIA, and DOES  
 14 1 TO 100, INCLUSIVE,

15 Defendants.

Case No. 21CV01049

**NOTICE OF HEARING ON DEMURRER;  
 DEMURRER TO PLAINTIFFS' FIRST  
 AMENDED COMPLAINT (Code Civ. Pro.  
 §§430.10; 430.30)**

Date: October 20, 2021  
 Time: 08:30 a.m.  
 Dept.: SM3

ASSIGNED FOR ALL PURPOSES TO HON.  
 TIMOTHY STAFFEL

[Filed concurrently with Motion to Strike  
 Plaintiffs' First Amended Complaint]

Action Filed: March 12, 2021  
 Trial Date: None set

**TO PLAINTIFFS AND THEIR ATTORNEY OF RECORD:**

PLEASE TAKE NOTICE that on October 20, 2021, at 08:30 a.m., or as soon thereafter as the  
 matter may be heard in Department SM3 of the above-captioned Court, located at the Santa Barbara  
 County Superior Court, 312-C East Cook Street, Bldg. E, Santa Maria, CA 93454, Defendant State of  
 California, by and through the Department of Transportation (Defendant), will and does demur to the  
 First Amended Complaint filed by Plaintiffs Monica Araiza and Ifrain Araiza (Plaintiffs). Defendant  
 specially demurs to the First Cause of Action for Dangerous Condition of Public Property on the  
 ground that it is uncertain. Defendant generally demurs to the Second Cause of Action for General

CALIFORNIA DEPARTMENT OF TRANSPORTATION - LEGAL DIVISION  
 111 Grand Avenue, Suite 111-100, Oakland, California 94612  
 Mail: P.O. Box 24325, Oakland, CA 94623-1325  
 Telephone: (510) 433-9100, Facsimile: (510) 433-9167

1 Negligence on the ground that Plaintiffs fail to state facts sufficient to constitute a cause of action.

2 Defendant also generally demurs to the Third Cause of Action for Wrongful Death on the ground that

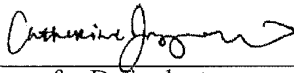
3 Plaintiffs fail to state facts sufficient to constitute a cause of action.

4 Defendant has complied with the meet and confer requirements of Code of Civil Procedure  
 5 section 430.41, as set forth in the supporting Declaration of Catherine Takayama, filed herewith.

6 These Demurrers are made pursuant to Code of Civil Procedure sections 430.10 and 430.30,  
 7 and will be based upon: this Notice and the Demurrer; the Declaration of Catherine Takayama;  
 8 supporting Memorandum of Points and Authorities; all records presently on file with the Court; any  
 9 reply Defendant may make; and any argument which may be advanced at the hearing on this  
 10 Demurrer.

11  
 12 Dated: September 7, 2021

ERIN E. HOLBROOK  
 G. MICHAEL HARRINGTON  
 ARDINE ZAZZERON  
 CATHERINE TAKAYAMA

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 15 By   
 16 Attorneys for Defendant  
 17 STATE OF CALIFORNIA, acting by and  
 18 through the Department of Transportation  
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CALIFORNIA DEPARTMENT OF TRANSPORTATION - LEGAL DIVISION  
 111 Grand Avenue, Suite 11-100, Oakland, California 94612  
 Mail: P.O. Box 24325, Oakland, CA 94623-1325  
 Telephone: (510) 433-9100, Facsimile: (510) 433-9167

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**Demurrer to the First Cause of Action**

1. Special Demurrer: The first cause of action for dangerous condition of public property is uncertain. (Code Civ. Proc., § 430.10(f))

**Demurrer to the Second Cause of Action**

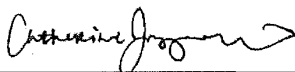
1. General Demurrer: The second cause of action for General Negligence fails to state facts sufficient to constitute a cause of action. (Code Civ. Proc., § 430.10(e); (*Banerian v. O'Malley* (1974) 42 Cal. App. 3d 604, 610–11; *Peterson v. San Francisco Community College Dist.* (1984) 36 Cal.3d 799, 809.)

**Demurrer to the Third Cause of Action**

1. General Demurrer: The third cause of action for Wrongful Death fails to state facts sufficient to constitute a cause of action. (Code Civ. Proc., § 430.10(e); (*Banerian v. O'Malley* (1974) 42 Cal. App. 3d 604, 610–11; *Peterson v. San Francisco Community College Dist.* (1984) 36 Cal.3d 799, 809.)

Dated: September 7, 2021

ERIN E. HOLBROOK  
 G. MICHAEL HARRINGTON  
 ARDINE ZAZZERON  
 CATHERINE TAKAYAMA

By   
 Attorneys for Defendant  
 STATE OF CALIFORNIA, acting by and  
 through the Department of Transportation

Case Name: *Monica Araiza v. State of California, et al.*  
Case No.: Santa Barbara County Superior Court Case No. 21CV01049

**PROOF OF SERVICE**

I, the undersigned, say: I am, and was at all times herein mentioned, employed in the City of Oakland, and County of Alameda, over the age of 18 years and not a party to the within action or proceedings; that my business address is 111 Grand Avenue, Suite 11-100, Oakland, California 94612; Mail: P.O. Box 24325, Oakland, CA 94623-1325; that on the date set forth below, I served the within:

**NOTICE OF HEARING ON DEMURRER; DEMURRER ON PLAINTIFF'S FIRST AMENDED COMPLAINT**

on all interested parties in said action by:

- (MAIL) By placing a true copy thereof enclosed in a sealed envelope for each person(s) named below, addressed as set forth immediately below the respective name(s), with postage thereon fully prepaid as first-class mail. I deposited the same in a mailing facility regularly maintained by the United States Post Office for the mailing of letter(s) at my above-stated place of business.
- X** (BY ELECTRONIC-MAIL ONLY) by attaching a copy of the document(s) in PDF format sent to the email addresses of the parties listed below, pursuant to stipulation. No hard copies will follow.
- (FACSIMILE TRANSMITTAL) By faxing a true copy thereof as indicating by the address(es), and facsimile telephone number(s) for each person(s) named below as set forth immediately below the respective name(s) pursuant to this Proof of Service.
- (OVERNIGHT DELIVERY) By placing a true copy thereof, enclosed in a sealed envelope, to be delivered by the express mail carrier, to the address(es) shown below.

Isaac Toveg, Esq. Law Offices of Isaac Toveg 2600 W. Olive Ave., 5 <sup>th</sup> Floor Burbank, CA 91505 <u><a href="mailto:isaactoveg@aol.com">isaactoveg@aol.com</a></u>  Attorney for Plaintiff, Monica Araiza	
---	--

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 7, 2021 at San Francisco, California.

  
CORAZON PILARE, Declarant

ELECTRONICALLY FILED  
Superior Court of California  
County of Santa Barbara  
Darrel E. Parker, Executive Officer  
9/9/2021 12:15 PM

ERIN E. HOLBROOK, Chief Counsel  
G. MICHAEL HARRINGTON, Deputy Chief Counsel  
ARDINE ZAZZERON, Assistant Chief Counsel  
CATHERINE TAKAYAMA, Deputy Attorney (SBN 303690)  
Caltrans Legal Division – Bay Area Office  
111 Grand Avenue, Suite 11-100, Oakland, CA 94612  
**Mail: P.O. BOX 24325, OAKLAND, CA 94623-1325**  
Telephone: (510) 433-9100, Facsimile: (510) 433-9167

By: Miroslava Pena-Bautista, Deputy

Attorneys for Defendant STATE OF CALIFORNIA,  
acting by and through the DEPARTMENT OF TRANSPORTATION

NO FEE PURSUANT TO GOV'T CODE § 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SANTA BARBARA

MONICA ARAIZA, and IFRAIN ARAIZA,

Case No. 21CV01049

Plaintiffs,

**NOTICE OF HEARING ON MOTION TO  
STRIKE; MOTION TO STRIKE  
PLAINTIFFS' FIRST AMENDED  
COMPLAINT (Code of Civ. Pro. §§ 435-437.)**

vs.

THE STATE OF CALIFORNIA, and DOES  
1 TO 100, INCLUSIVE,

Date: October 20, 2021  
Time: 08:30 a.m.  
Dept.: SM3

Defendants.

ASSIGNED FOR ALL PURPOSES TO HON.  
TIMOTHY STAFFEL

[Filed concurrently with Demurrer to Plaintiffs'  
First Amended Complaint]

Action Filed: March 12, 2021  
Trial Date: None set



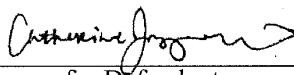
1 **TO PLAINTIFFS AND THEIR ATTORNEY OF RECORD:**

2 PLEASE TAKE NOTICE that on October 20, 2021 at 08:30 a.m., or as soon thereafter as  
 3 the matter may be heard in Department SM3 of the above-captioned Court, located at the Santa  
 4 Barbara County Superior Court, 312-C East Cook Street, Bldg. E, Santa Maria, CA 93454,  
 5 Defendant State of California, by and through the Department of Transportation (Defendant), will  
 6 and does move to strike portions of the First Amended Complaint filed by Plaintiffs Monica  
 7 Araiza and Ifrain Araiza (Plaintiffs).

8 This motion is based upon Code of Civil Procedure sections 435 and 436 (a)-(b) and is  
 9 supported by this notice, the memorandum of points and authorities, declaration of Catherine  
 10 Takayama, the pleadings and records contained in the Court file, on matters of which the Court  
 11 may take judicial notice, and any other oral and documentary evidence presented to the court at  
 12 the time of the hearing.

13  
 14 Dated: September 7, 2021

ERIN E. HOLBROOK  
 G. MICHAEL HARRINGTON  
 ARDINE ZAZZERON  
 CATHERINE TAKAYAMA

16  
 17 By   
 Attorneys for Defendant  
 18 STATE OF CALIFORNIA, acting by and  
 19 through the Department of Transportation  
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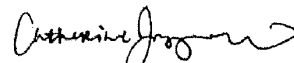
**MOTION TO STRIKE PLAINTIFFS' COMPLAINT**

Defendant State of California, by and through the Department of Transportation, moves to strike the following words/phrases in Plaintiffs' First Amended Complaint:

Paragraph	Lines	Words/Phrases
17	3-4	815.2(a), 815.6, 820(a)
24	5-6	815.2(a), 815.6, 820(a), 840.2.

Dated: September 7, 2021

ERIN E. HOLBROOK  
G. MICHAEL HARRINGTON  
ARDINE ZAZZERON  
CATHERINE TAKAYAMA

By   
Attorneys for Defendant  
STATE OF CALIFORNIA, acting by and  
through the Department of Transportation

Case Name: ***Monica Araiza v. State of California, et al.***  
Case No.: **Santa Barbara County Superior Court Case No. 21CV01049**

**PROOF OF SERVICE**

I, the undersigned, say: I am, and was at all times herein mentioned, employed in the City of Oakland, and County of Alameda, over the age of 18 years and not a party to the within action or proceedings; that my business address is 111 Grand Avenue, Suite 11-100, Oakland, California 94612; Mail: P.O. Box 24325, Oakland, CA 94623-1325; that on the date set forth below, I served the within:

**NOTICE OF HEARING ON MOTION TO STRIKE; MOTION TO STRIKE  
PLAINTIFF'S FIRST AMENDED COMPLAINT**

on all interested parties in said action by:

- (MAIL) By placing a true copy thereof enclosed in a sealed envelope for each person(s) named below, addressed as set forth immediately below the respective name(s), with postage thereon fully prepaid as first-class mail. I deposited the same in a mailing facility regularly maintained by the United States Post Office for the mailing of letter(s) at my above-stated place of business.
- X** (BY ELECTRONIC-MAIL ONLY) by attaching a copy of the document(s) in PDF format sent to the email addresses of the parties listed below, pursuant to stipulation. No hard copies will follow.
- (FACSIMILE TRANSMITTAL) By faxing a true copy thereof as indicating by the address(es), and facsimile telephone number(s) for each person(s) named below as set forth immediately below the respective name(s) pursuant to this Proof of Service.
- (OVERNIGHT DELIVERY) By placing a true copy thereof, enclosed in a sealed envelope, to be delivered by the express mail carrier, to the address(es) shown below.

Isaac Toveg, Esq. Law Offices of Isaac Toveg 2600 W. Olive Ave., 5 <sup>th</sup> Floor Burbank, CA 91505 <u><a href="mailto:isaactoveg@aol.com">isaactoveg@aol.com</a></u> Attorney for Plaintiff, Monica Araiza	
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 7, 2021 at San Francisco, California.

  
CORAZON PILARE, Declarant

LAW OFFICES OF ISAAC TOVEG  
 2600 West Olive Avenue, 5<sup>th</sup> Floor  
 Burbank, California 91505  
 Telephone No.: (818) 333-5202  
 Facsimile No.: (818) 333-5203  
 Email: isaactoveg@aol.com  
 Attorney for: Plaintiff Monica and Ifrain Eriza

ELECTRONICALLY FILED  
 Superior Court of California  
 County of Santa Barbara  
 Darrel E. Parker, Executive Officer  
 10/6/2021 4:39 PM  
 By: Norma Willoughby, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA,  
 COUNTY OF SANTA BARBARA

MONICA ARAIZA AND IFRAIN ARAIZA

Plaintiffs,

vs.

THE STATE OF CALIFORNIA AND DOES

1 TO 100, INCLUSIVE

Defendants.

Case No. 21CV01049

**PLAINTIFFS MONICA AND IFRAIN  
 ARAIZA RESPONSE IN OPPOSITION  
 TO DEFENDANT'S MOTION TO  
 STRIKE PORTIONS OF PLAINTIFF'S  
 COMPLAINT ;  
 MEMORANDUM OF POINTS AND  
 AUTHORITIES [ATTACHED with  
 Declaration of Isaac Toveg], Concurrently  
 filed with Opposition to Demurrer**

DATE: OCTOBER 20, 2021  
 Time : 8:30 AM  
 Dept : SM3

Plaintiffs Monica and Ifrain Araiza ("Araiza ") herein submits its opposition to Defendant  
 The State of California ("State") Motion to Strike portions to Plaintiff's First Amended  
 Complaint namely, Paragraph 17, lines 3-4 word phrases 815.2(a), 815.6, 820(a), and paragraph  
 24 Lines 5-6 word phrases 815.2(a), 815.6, 820(a), 840.2. However, To the contrary, for the  
 reasons set forth below, these paragraphs set forth in the complaint are properly plead and  
 defendants motion to strike should be denied in its entirety and have defendants file and answer  
 to the complaint within 10 days. Decl of IT #3.

PLEADING TITLE - 1

1 Alternatively, if the court find that one or more of these word/phrases are not properly plead  
 2 plaintiffs Araiza seek leave of court to amend the complaint to cure any defects as there is no  
 3 prejudice to the defendant, this case at this stage is still in the early discovery phase where  
 4 discovery had just commenced, State has not filed an answer, and there has been no deposition  
 5 scheduled on calendar as of this date. Decl of It #4.

6 The opposition shall be based on, the attached Memorandum of Points and  
 7 Authorities, the complete files, records on this action, the Declaration of Isaac Toveg, and on  
 8 such other oral and or documentary evidence as may be presented at the hearing of the motion.  
 9

10 Dated: Octotber 4, 2021

/S/ Isaac Toveg\_\_\_\_\_  
 Isaac Toveg, Attorney for Plaintiffs

#### 11 12 MEMORANDUM POINTS AND AUTHORITIES

#### 13 I. STATEMENT OF FACTS

14 This action arises out of a motor vehicle collision that occurred on February 14, 2020 on State Route 1  
 15 (speed limit is 55 MPH) where the two lane road merges into one lane as motorist are travelling at high  
 16 Speed. A vehicle driven by Michael Hanson traveling on Northbound State Route 1 was unable to safely  
 17 merge into traffic and crossed over the median line and collided with the vehicle in which Plaintiff's  
 18 decedent, Selena Araiza, was a passenger traveling southbound on State Route 1. Dec. of IT #5. There has  
 19 been and continues to be substantial amount of traffic collisions that occurred in the same area where this  
 20 motor vehicle collision occurred due to the merger of the two lanes into one lane at a speed limit of 55Mph.  
 21 Both Michael Hanson and Selena Araiza died as a result of the collision. Decl of IT # 6. Plaintiff then filed  
 22 an amended Complaint which included these causes of actions. 1. Dangerous condition of Public Property,  
 23 2 Negligence as to Does 1 to 100, and 3. Wrongful death as to defendants  
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PLEADING TITLE - 2

## II. Legal Standard

Pursuant to Code of Civil Procedure, section 436, “the court may, upon a motion made pursuant to Section 435, or at any time in its discretion, and upon terms it deems proper:

(a) Strike out any irrelevant, false, or improper matter inserted in any pleading. (b) Strike out all or any part of any pleading not drawn or filed in conformity with the laws of this state, a Court rule, or an order of the court.” The grounds for a motion to strike must “appear on the face of the challenged pleading or from any matter of which the court is required to take judicial notice.” (Code Civ. Proc., § 437.)

Motions to strike are used to challenge defects in the pleadings not subject to demurrer. (*Ferraro v. Camarlinghi* (2008) 161 Cal.App.4th 509, 529 [recognizing that an objection that the complaint failed to state facts sufficient to constitute a cause of action is ground for a general demurrer, not a motion to strike.]) Any party may move to strike the whole or any part of a pleading within the time allotted to respond to the pleading.

(Code Civ. Proc., § 435, subd. (b)(1).) The allegations of a complaint “must be liberally construed, with a view to substantial justice between the parties.” (Code Civ. Proc., § 452.)

The court “read[s] allegations of a pleading subject to a motion to strike as a whole, all parts in their context, and assume[s] their truth.” (*Clauson v. Sup. Ct.* (1998) 67 Cal.App.4th 1253, 1255.)

Since Plaintiffs Araiza here have pleaded sufficient facts in the Complaint to state a proper claims against Defendant State, The Court should deny the motion to strike. But even if this Court does identify some defect in any of these claims, the Court should grant plaintiff leave to amend to cure it as there is no prejudice to the defendant since this case is in the early discovery stage.

**B. PLAINTIFF HAS PROPERLY PLED THE PARAGRAPHS AND THE STATUTES AGAINST STATE AND HER MOTION TO STRIKE SHOULD BE DENIED IN ITS ENTIRETY.**

Plaintiff has sufficiently pled cause of actions regarding the above two paragraphs and the statutes associated with them. Defendant argues that these word/phrases are improper and irrelevant statutes under a dangerous condition cause of action. That is untrue as defendant again

PLEADING TITLE - 3

1 is arguing the truth of the matter asserted in the complaint. Defendant need to do that in her  
 2 answer which she has not done. A defect apparent only in connection with additional evidence  
 3 must be raised by the answer.  
 4

5 Further, The Complaint needs to be read as whole and not in parts/ phrases as all of these  
 6 statutes are relevant as defendant is attempting to dispute the facts of the Various statutes in the  
 7 Complaint which is not proper. She needs to do that thru discovery or other means. Defendant is  
 8 looking for additional evidence as that can be sone thru discovery. The court is to assume that the  
 9 Plaintiff has pled facts that are assumed all facts are true. Therefore defendant's motion to  
 10 strike should be denied and defendant needs to file her answer to the Complaint within ten days.  
 11

#### 12 **CONCLUSION**

13 For the reasons set forth above, Plaintiff respectfully request that the Court  
 14 should deny defendant's motion to strike. In the alternative, should this court be inclined to grant  
 15 any part of said motions, Plaintiffs' request that they amend their Complaint to cure that defect by  
 16 adding additional facts to their Complaint.

17 DATED: October 06, 2021 BY: /S/ Isaac Toveg \_\_\_\_\_

18 ISAAC TOVEG, ATTORNEY FOR Plaintiffs Araiza  
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**DECLARATION OF ISAAC TOVEG**

I, ISAAC TOVEG, declare:

1. I am an attorney licensed to practice before all the State courts in the State of California. I am the counsel for Plaintiffs Monica and Ilfrain in this action. The following is based on my personal knowledge and if called as a witness, I could and would testify competently thereto.
2. I am in support of Plaintiff's Opposition to Defendant's Motion to Strike portions of Plaintiffs' complaint.
3. To the contrary, for the reasons set forth below, the Complaint including paragraphs words/phrases set forth in the complaint are properly plead and defendants motion should be denied and have defendants file and answer to the Complaint within 10 days.
4. Alternatively, if the court find that one or more words/phrases are not properly plead plaintiff seeks leave of court to amend the complaint to cure any defects as there is no prejudice to the defendant, this case at this stage is still in the early discovery phase where discovery had just commenced and there has been no deposition scheduled on calendar as of this date.
5. This action arises out of a motor vehicle collision that occurred on February 14, 2020 on State Route 1 (speed limit is 55 MPH) where the two lane road merges into one lane as motorist are travelling at high Speed. A vehicle driven by Michael Hanson traveling on Northbound State Route 1 was unable to safely merge into traffic and crossed over the median line and collided with the vehicle in which Plaintiff's decedent, Selena Araiza, was a passenger traveling southbound on State Route 1.
6. There has been and continues to be substantial amount of traffic collisions that occurred in the same area where this motor vehicle collision occurred due to the merger of the two lanes into one lane at a speed limit of 55Mph.. Both Michael Hanson and Selena Araiza died as a result of the collision

PLEADING TITLE - 5



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3 Note; An electronic signature is equivalent to a live signature.  
4

5 I declare under the penalty of perjury under the laws of the State of California that the foregoing  
6 is true and correct and that this declaration was executed on October 6, 2021.  
7

8 /S/ Isaac Toveg

9 ISAAC TOVEG

10 Attorney for Plaintiffs Araiza  
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PLEADING TITLE - 6

**PROOF OF SERVICE**

I, the undersigned, say: I am over 18 years of age, employed in the County of Los Angeles, California, in which the within-mentioned service occurred; and that I am not a party to the subject case. My business address is 2600 West Olive Avenue, 5<sup>th</sup> Floor, Burbank, California 91505.

On October 6, 2021 I served the following document(s):

1. Plaintiff's response in opposition to Defendants motion to strike
2. Plaintiffs response in opposition to Defendants Demur

By placing a copy thereof in a separate envelope for each addressee named hereafter and addressed as follows:

State of Ca. acting by and through the Dept of Transportation  
Attn: Catherine Takayama  
111 Grand Ave., Suite 11-100  
Oakland, CA. 94623-1325

( ) BY MAIL. I am familiar with this firm's practice of collection and processing correspondence for mailing with the United States Postal Service, and that the correspondence shall be deposited with the United States Postal Service this same day in the ordinary course of business pursuant to Code of Civil Procedure, §1013a.

( ) BY FAX. A copy of said document(s) were delivered by facsimile transmission to the addressee pursuant to Code of Civil Procedure §1013(e):

( x ) BY Email. I caused said document(s) to be delivered electronically to the addressee pursuant to Code of Civil Procedure §1011.

I declare under the penalty of perjury, under the laws of the State of California that the foregoing is true and correct. Executed this 6<sup>th</sup> day of October, in Burbank, CA 91505.

/s/Brittany Caudillo\_\_\_\_\_  
Brittany Caudillo , Declarant

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PLEADING TITLE - 8

CM-110

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Catherine Takayama (SBN 303690) State of California, California Department of Transportation ("Caltrans") 111 Grand Avenue, P.O. Box 24325, Oakland, CA 94623-1325 TELEPHONE NO.: (510) 433-9100 FAX NO. (Optional): (510) 433-9167 E-MAIL ADDRESS (Optional): catherine.takayama@dot.ca.gov ATTORNEY FOR (Name): Defendant State of California		FOR COURT USE ONLY  ELECTRONICALLY FILED Superior Court of California County of Santa Barbara Darrel E. Parker, Executive Officer 10/8/2021 3:05 PM By: Jazmine Killian, Deputy	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Barbara STREET ADDRESS: 213-C East Cook Street MAILING ADDRESS: CITY AND ZIP CODE: Santa Maria 93454 BRANCH NAME: Cook Division			
PLAINTIFF/PETITIONER: Monica Araiza, et al. DEFENDANT/RESPONDENT: State of California, et al.			
<b>CASE MANAGEMENT STATEMENT</b> (Check one): <input checked="" type="checkbox"/> <b>UNLIMITED CASE</b> (Amount demanded exceeds \$25,000) <input type="checkbox"/> <b>LIMITED CASE</b> (Amount demanded is \$25,000 or less)		CASE NUMBER: 21CV01049	
A <b>CASE MANAGEMENT CONFERENCE</b> is scheduled as follows: Date: 10/26/21 Time: 08:30 a.m. Dept.: 3 Div.: Civil Room: Address of court (if different from the address above): <input checked="" type="checkbox"/> <b>Notice of Intent to Appear by Telephone, by (name):</b> Catherine Takayama, Esq.			

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

- Party or parties (answer one):**
  - ☒ This statement is submitted by party (name): State of California, Caltrans
  - ☐ This statement is submitted **jointly** by parties (names):
- Complaint and cross-complaint (to be answered by plaintiffs and cross-complainants only)**
  - The complaint was filed on (date):
  - ☐ The cross-complaint, if any, was filed on (date):
- Service (to be answered by plaintiffs and cross-complainants only)**
  - ☐ All parties named in the complaint and cross-complaint have been served, have appeared, or have been dismissed.
  - ☐ The following parties named in the complaint or cross-complaint
    - ☐ have not been served (specify names and explain why not):
    - ☐ have been served but have not appeared and have not been dismissed (specify names):
    - ☐ have had a default entered against them (specify names):
  - ☐ The following additional parties may be added (specify names, nature of involvement in case, and date by which they may be served):
- Description of case**
  - Type of case in ☒ complaint ☐ cross-complaint (Describe, including causes of action):  
Plaintiff alleges damages from an automobile accident. Plaintiff's three causes of action are Dangerous Condition of Public Property, negligence, and wrongful death.

CM-110

PLAINTIFF/PETITIONER: Monica Araiza, et al.	CASE NUMBER:
DEFENDANT/RESPONDENT: State of California, et al.	21CV01049

4. b. Provide a brief statement of the case, including any damages. *(If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)*

Plaintiffs allege damages resulting from an accident that occurred on February 14, 2020. Decedent Selena Araiza was a passenger in a vehicle that collided with another vehicle on southbound State Route 1, near Santa Rosa Road in Lompoc, California.

☐ *(If more space is needed, check this box and attach a page designated as Attachment 4b.)*

5. **Jury or nonjury trial**

The party or parties request ☒ a jury trial ☐ a nonjury trial. *(If more than one party, provide the name of each party requesting a jury trial):*

6. **Trial date**

a. ☐ The trial has been set for *(date)*:

b. ☒ No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint *(if not, explain)*:

c. Dates on which parties or attorneys will not be available for trial *(specify dates and explain reasons for unavailability)*:

7. **Estimated length of trial**

The party or parties estimate that the trial will take *(check one)*:

a. ☒ days *(specify number)*: 5-7

b. ☐ hours (short causes) *(specify)*:

8. **Trial representation** *(to be answered for each party)*

The party or parties will be represented at trial ☒ by the attorney or party listed in the caption ☐ by the following:

a. Attorney:

b. Firm:

c. Address:

d. Telephone number:

f. Fax number:

e. E-mail address:

g. Party represented:

☐ Additional representation is described in Attachment 8.

9. **Preference**

☐ This case is entitled to preference *(specify code section)*:

10. **Alternative dispute resolution (ADR)**

a. **ADR information package.** Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 for information about the processes available through the court and community programs in this case.

(1) For parties represented by counsel: Counsel ☐ has ☒ has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.

(2) For self-represented parties: Party ☐ has ☐ has not reviewed the ADR information package identified in rule 3.221.

b. **Referral to judicial arbitration or civil action mediation** (if available).

(1) ☐ This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.

(2) ☐ Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.

(3) ☐ This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. *(specify exemption)*:

CM-110

PLAINTIFF/PETITIONER: Monica Araiza, et al.	CASE NUMBER:
DEFENDANT/RESPONDENT: State of California, et al.	21CV01049

10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (*check all that apply and provide the specified information*):

	The party or parties completing this form <b>are willing</b> to participate in the following ADR processes ( <i>check all that apply</i> ):	If the party or parties completing this form in the case <b>have agreed</b> to participate in or have already completed an ADR process or processes, indicate the status of the processes ( <i>attach a copy of the parties' ADR stipulation</i> ):
(1) Mediation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for (date): <input type="checkbox"/> Agreed to complete mediation by (date): <input type="checkbox"/> Mediation completed on (date):
(2) Settlement conference	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for (date): <input type="checkbox"/> Agreed to complete settlement conference by (date): <input type="checkbox"/> Settlement conference completed on (date):
(3) Neutral evaluation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for (date): <input type="checkbox"/> Agreed to complete neutral evaluation by (date): <input type="checkbox"/> Neutral evaluation completed on (date):
(4) Nonbinding judicial arbitration	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete judicial arbitration by (date): <input type="checkbox"/> Judicial arbitration completed on (date):
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete private arbitration by (date): <input type="checkbox"/> Private arbitration completed on (date):
(6) Other ( <i>specify</i> ):	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for (date): <input type="checkbox"/> Agreed to complete ADR session by (date): <input type="checkbox"/> ADR completed on (date):

CM-110

PLAINTIFF/PETITIONER: Monica Araiza, et al.	CASE NUMBER:
DEFENDANT/RESPONDENT: State of California, et al.	21CV01049

**11. Insurance**

- a. ☐ Insurance carrier, if any, for party filing this statement (*name*):
- b. Reservation of rights: ☐ Yes ☐ No
- c. ☐ Coverage issues will significantly affect resolution of this case (*explain*):

**12. Jurisdiction**

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

☐ Bankruptcy ☐ Other (*specify*):

Status:

**13. Related cases, consolidation, and coordination**

- a. ☐ There are companion, underlying, or related cases.
- (1) Name of case:
- (2) Name of court:
- (3) Case number:
- (4) Status:
- ☐ Additional cases are described in Attachment 13a.
- b. ☐ A motion to ☐ consolidate ☐ coordinate will be filed by (*name party*):

**14. Bifurcation**

- ☐ The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (*specify moving party, type of motion, and reasons*):

**15. Other motions**

- ☒ The party or parties expect to file the following motions before trial (*specify moving party, type of motion, and issues*):
- Defendant State of California has filed a demurrer and motion to strike Plaintiffs' First Amended complaint.

**16. Discovery**

- a. ☐ The party or parties have completed all discovery.
- b. ☒ The following discovery will be completed by the date specified (*describe all anticipated discovery*):
- | Party              | Description        | Date                 |
|--------------------|--------------------|----------------------|
| Defendant Caltrans | Written Discovery  | Per Statutory Period |
| Defendant Caltrans | Depositions        | Per Statutory Period |
| Defendant Caltrans | Document Subpoenas | Per Statutory Period |
- c. ☐ The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (*specify*):

CM-110

PLAINTIFF/PETITIONER: Monica Araiza, et al.	CASE NUMBER: 21CV01049
DEFENDANT/RESPONDENT: State of California, et al.	

**17. Economic litigation**

- a. ☐ This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. ☐ This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed *(if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case)*:

**18. Other issues**

- ☐ The party or parties request that the following additional matters be considered or determined at the case management conference *(specify)*:

**19. Meet and confer**

- a. ☒ The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court *(if not, explain)*:
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following *(specify)*:

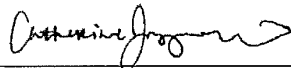
20. Total number of pages attached *(if any)*: \_\_\_\_\_

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: 10/08/21

Catherine Takayama

(TYPE OR PRINT NAME)

▶ 

(SIGNATURE OF PARTY OR ATTORNEY)

(TYPE OR PRINT NAME)

▶ \_\_\_\_\_  
(SIGNATURE OF PARTY OR ATTORNEY)

☐ Additional signatures are attached.



Case Name: *Monica Araiza v. State of California, et al.*  
Case No.: Santa Barbara County Superior Court Case No. 21CV01049

**PROOF OF SERVICE**

I, the undersigned, say: I am, and was at all times herein mentioned, employed in the City of Oakland, and County of Alameda, over the age of 18 years and not a party to the within action or proceedings; that my business address is 111 Grand Avenue, Suite 11-100, Oakland, California 94612; Mail: P.O. Box 24325, Oakland, CA 94623-1325; that on the date set forth below, I served the within:

**CASE MANAGEMENT STATEMENT**

on all interested parties in said action by:

— (MAIL) By placing a true copy thereof enclosed in a sealed envelope for each person(s) named below, addressed as set forth immediately below the respective name(s), with postage thereon fully prepaid as first-class mail. I deposited the same in a mailing facility regularly maintained by the United States Post Office for the mailing of letter(s) at my above-stated place of business.

X (BY ELECTRONIC-MAIL ONLY) by attaching a copy of the document(s) in PDF format sent to the email addresses of the parties listed below, pursuant to stipulation. No hard copies will follow.

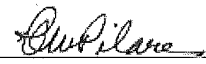
— (FACSIMILE TRANSMITTAL) By faxing a true copy thereof as indicating by the address(es), and facsimile telephone number(s) for each person(s) named below as set forth immediately below the respective name(s) pursuant to this Proof of Service.

— (OVERNIGHT DELIVERY) By placing a true copy thereof, enclosed in a sealed envelope, to be delivered by the express mail carrier, to the address(es) shown below.

Isaac Toveg, Esq. Law Offices of Isaac Toveg 2600 W. Olive Ave., 5 <sup>th</sup> Floor Burbank, CA 91505 <u>isaactoveg@aol.com</u>  Attorney for Plaintiff, Monica Araiza	
---	--

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on October 8, 2021 at San Francisco, California.

  
CORAZON PILARE, Declarant

ELECTRONICALLY FILED  
 Superior Court of California  
 County of Santa Barbara  
 Darrel E. Parker, Executive Officer  
 10/8/2021 3:05 PM  
 By: Jazmine Killian, Deputy

1 ERIN E. HOLBROOK, Chief Counsel  
 2 G. MICHAEL HARRINGTON, Deputy Chief Counsel  
 3 ARDINE ZAZZERON, Assistant Chief Counsel  
 4 CATHERINE TAKAYAMA, Deputy Attorney (SBN 303690)  
 5 Caltrans Legal Division – Bay Area Office  
 111 Grand Avenue, Suite 11-100, Oakland, CA 94612  
 6 Mail: P.O. BOX 24325, OAKLAND, CA 94623-1325  
 Telephone: (510) 433-9100, Facsimile: (510) 433-9167

Attorneys for Defendant STATE OF CALIFORNIA,  
 acting by and through the DEPARTMENT OF TRANSPORTATION

NO FEE PURSUANT TO GOV'T CODE § 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 FOR THE COUNTY OF SANTA BARBARA

MONICA ARAIZA, and IFRAIN ARAIZA,

Case No. 21CV01049

Plaintiffs,

**REPLY TO PLAINTIFFS' OPPOSITION TO  
 DEFENDANT STATE OF CALIFORNIA'S  
 MOTION TO STRIKE PLAINTIFFS' FIRST  
 AMENDED COMPLAINT (Code of Civ. Pro.  
 §§ 435-437.)**

vs.

THE STATE OF CALIFORNIA, and DOES  
 1 TO 100, INCLUSIVE,

Date: October 20, 2021  
 Time: 08:30 a.m.  
 Dept.: SM3

Defendants.

ASSIGNED FOR ALL PURPOSES TO HON.  
 TIMOTHY STAFFEL

Action Filed: March 12, 2021  
 Trial Date: None set

Defendant the State of California, by and through the Department of Transportation  
 (Caltrans) submits the following Reply to Plaintiffs' opposition to the Motion to Strike Plaintiffs'  
 First Amended Complaint.

**I. ARGUMENT**

**A. The Court should strike Plaintiffs' references to improper and irrelevant statutes under a dangerous condition cause of action.**

Plaintiffs' opposition does not address any of the legal authorities or issues raised in  
 Caltrans' Motion to Strike. Moreover, Plaintiffs incorrectly assert that Caltrans attacks the facts

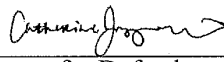
1 of the FAC. In its Motion to Strike, Caltrans asserts that Government Code sections 815.2(a),  
2 815.6, 820(a), 840.2 are not proper when a dangerous condition cause of action is alleged.  
3 Plaintiffs opposition offers no reasons for denying Caltrans' Motion to Strike. As such, Caltrans'  
4 Motion to Strike Plaintiffs' First Amended Complaint should be granted.

5 **V. CONCLUSION**

6 Based on the foregoing, and those previously stated in its motion, Defendant respectfully  
7 requests that the Court grant Defendant's Motion to Strike Plaintiffs' First Amended Complaint.

8  
9 Dated: October 8, 2021

ERIN E. HOLBROOK  
G. MICHAEL HARRINGTON  
ARDINE ZAZZERON  
CATHERINE TAKAYAMA

11  
12 By   
13 Attorneys for Defendant  
14 STATE OF CALIFORNIA, acting by and  
15 through the Department of Transportation  
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Case Name: *Monica Araiza v. State of California, et al.*  
Case No.: Santa Barbara County Superior Court Case No. 21CV01049

**PROOF OF SERVICE**

I, the undersigned, say: I am, and was at all times herein mentioned, employed in the City of Oakland, and County of Alameda, over the age of 18 years and not a party to the within action or proceedings; that my business address is 111 Grand Avenue, Suite 11-100, Oakland, California 94612; Mail: P.O. Box 24325, Oakland, CA 94623-1325; that on the date set forth below, I served the within:

**REPLY TO PLAINTIFF'S OPPOSITION TO DEFENDANT STATE OF CALIFORNIA'S  
MOTION TO STRIKE PLAINTIFF'S FIRST AMENDED COMPLAINT**

on all interested parties in said action by:

— (MAIL) By placing a true copy thereof enclosed in a sealed envelope for each person(s) named below, addressed as set forth immediately below the respective name(s), with postage thereon fully prepaid as first-class mail. I deposited the same in a mailing facility regularly maintained by the United States Post Office for the mailing of letter(s) at my above-stated place of business.

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Isaac Toveg, Esq. Law Offices of Isaac Toveg 2600 W. Olive Ave., 5 <sup>th</sup> Floor Burbank, CA 91505 <u>isaactoveg@aol.com</u>  Attorney for Plaintiff, Monica Araiza	
---	--

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on October 8, 2021 at San Francisco, California.

  
CORAZON PILARE, Declarant

ELECTRONICALLY FILED  
 Superior Court of California  
 County of Santa Barbara  
 Darrel E. Parker, Executive Officer  
 10/8/2021 3:05 PM  
 By: Jazmine Killian, Deputy

1 ERIN E. HOLBROOK, Chief Counsel  
 G. MICHAEL HARRINGTON, Deputy Chief Counsel  
 2 ARDINE ZAZZERON, Assistant Chief Counsel  
 CATHERINE TAKAYAMA, Deputy Attorney (SBN 303690)  
 3 Caltrans Legal Division – Bay Area Office  
 111 Grand Avenue, Suite 11-100, Oakland, CA 94612  
 4 **Mail: P.O. BOX 24325, OAKLAND, CA 94623-1325**  
 Telephone: (510) 433-9100, Facsimile: (510) 433-9167

5 Attorneys for Defendant STATE OF CALIFORNIA,  
 6 acting by and through the DEPARTMENT OF TRANSPORTATION

NO FEE PURSUANT TO GOV'T CODE § 6103

7  
 8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 9 FOR THE COUNTY OF SANTA BARBARA

10 MONICA ARAIZA, and IFRAIN ARAIZA,

Case No. 21CV01049

11 Plaintiffs,

**REPLY TO PLAINTIFFS' OPPOSITION TO  
 DEFENDANT STATE OF CALIFORNIA'S  
 MOTION TO STRIKE PLAINTIFFS' FIRST  
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12 vs.

13 THE STATE OF CALIFORNIA, and DOES  
 14 1 TO 100, INCLUSIVE,

Date: October 20, 2021

Time: 08:30 a.m.

Dept.: SM3

15 Defendants.

ASSIGNED FOR ALL PURPOSES TO HON.  
 TIMOTHY STAFFEL

Action Filed: March 12, 2021

Trial Date: None set

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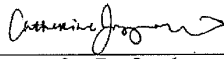
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 4 Motion to Strike Plaintiffs' First Amended Complaint should be granted.

## 5 V. CONCLUSION

6 Based on the foregoing, and those previously stated in its motion, Defendant respectfully  
 7 requests that the Court grant Defendant's Motion to Strike Plaintiffs' First Amended Complaint.

8  
 9 Dated: October 8, 2021

ERIN E. HOLBROOK  
 G. MICHAEL HARRINGTON  
 ARDINE ZAZZERON  
 CATHERINE TAKAYAMA

11  
 12 By   
 13 Attorneys for Defendant  
 14 STATE OF CALIFORNIA, acting by and  
 15 through the Department of Transportation  
 16  
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Case Name: *Monica Araiza v. State of California, et al.*  
Case No.: Santa Barbara County Superior Court Case No. 21CV01049

**PROOF OF SERVICE**

I, the undersigned, say: I am, and was at all times herein mentioned, employed in the City of Oakland, and County of Alameda, over the age of 18 years and not a party to the within action or proceedings; that my business address is 111 Grand Avenue, Suite 11-100, Oakland, California 94612; Mail: P.O. Box 24325, Oakland, CA 94623-1325; that on the date set forth below, I served the within:

**REPLY TO PLAINTIFF'S OPPOSITION TO DEFENDANT STATE OF CALIFORNIA'S  
MOTION TO STRIKE PLAINTIFF'S FIRST AMENDED COMPLAINT**

on all interested parties in said action by:

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Isaac Toveg, Esq. Law Offices of Isaac Toveg 2600 W. Olive Ave., 5 <sup>th</sup> Floor Burbank, CA 91505 <u>isaactoveg@aol.com</u>  Attorney for Plaintiff, Monica Araiza	
---	--

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on October 8, 2021 at San Francisco, California.

  
CORAZON PILARE, Declarant

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA BARBARA**

Dated and Entered: 10/20/2021	Time: 8:30 AM
Judicial Officer: Timothy J Staffel	
Deputy Clerk: Tanya Perez; Cynthia Barajas-Garcia	Dept: SM3
Deputy Sheriff: B.J. Fortier	
Court Reporter: Susan Davison	Case No: 21CV01049

---

**Monica Araiza et al vs The State of California**

Parties Present:

Takayama, Catherine	Attorney for Defendant The State of California, via Zoom
Toveg, Isaac	Attorney for Plaintiffs', via Zoom

---

**NATURE OF PROCEEDINGS: Motion: Strike/ Demurrer**

The Court inquires of counsel whether an amended complaint will be filed, and Mr. Toveg represents if the court sustains the demurrer, they will file an amended complaint and presents his position as to his opposition to the causes of action within the demurrer. Ms. Takayama represents they also filed a Motion to Strike and presents her argument. A lengthy discussion is held.

Mr. Toveg represents plaintiffs' second cause of action does not name the State of California for negligence, but rather it names "DOE". Additionally, he states once discovery is completed the complaint will be amended to name the defendants. As to the third cause of action, Mr. Toveg represents they allege the State of California is responsible for wrongful death due to the alleged dangerous road conditions. Furthermore, Mr. Toveg presents the facts surrounding the incident on 02/14/2020. A further lengthy discussion is held.

**THE COURT MAKES THE FOLLOWING ORDERS:**

A further Case Management Conference is set for 01/12/2022 at 8:30 a.m. in Department SM3.

The previously established Case Management Conference set on 10/26/2021 is now VACATED.

The State of California's Motion to Strike Plaintiffs' First Amended Complaint sustained with leave to amend.

The State of California's Demurrer to Plaintiffs' First Amended Complaint is sustained with leave to amend.

Counsel shall file and serve a second amended complaint within 45-days.

DARREL E. PARKER, EXECUTIVE OFFICER

Minutes Prepared by:

Cynthia Barajas-Garcia , Deputy



ELECTRONICALLY FILED  
 Superior Court of California  
 County of Santa Barbara  
 Darrel E. Parker, Executive Officer  
 12/6/2021 8:00 AM  
 By: Jazmine Killian, Deputy

1 Law Offices Of Isaac Toveg  
 Isaac Toveg SBN 269729  
 2 2600 W Olive Ave 5<sup>th</sup> Floor  
 3 Burbank CA 91505  
 818-333-5202  
 4 Isaactoveg@aol.com

OK per 10/20/21 Minute Order

No Summons Filed

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SANTA BARBARA

8 MONICA ARAIZA, AND IFRAIN ARAIZA,

Case No.: 21CV01049

9 Plaintiffs,

10 vs.

11 THE STATE OF CALIFORNIA, AND DOES  
 12 1 TO 100 INCLUSIVE

13 Defendant

**PLAINTIFFS MONICA AND IFRAIN  
 ARAIZA SECOND AMENDED  
 COMPLAINT FOR DAMAGES FOR:**

**1. STATUTORY LIABILITY/  
 DANGEROUS CONDITION OF PUBLIC  
 PROPERTY**

**2. NEGLIGENCE**

**3. WRONGFUL DEATH**

**DEMAND FOR JURY TRIAL**

19 Plaintiffs, Monica Araiza and Ifrain Araiza, file their Second Amended Complaint("SAC")  
 20 against Defendant the State of California and does 1 to 100 Inclusive, alleging the following:

**THE PARTIES**

23 1. Plaintiffs, Monica Araiza, and Ifrain Araiza ("Plaintiffs") were at all times relevant hereto  
 24 were, residents in the city of Lemon Grove, California .Further plaintiffs were the parents  
 25 (mother and father of the decedent Selena J Araiza).Selena J Araiza(the decedent ) had no  
 26 children and was not married at the time of this fatal collision. Plaintiffs are the only heir of

28 PLAINTIFFS MONICA AND IFRAIN ARAIZA SECOND AMENDED COMPLAINT FOR DAMAGES FOR:  
 1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF PUBLIC PROPERTY  
 2.NEGLIGENCE3. WRONGFUL DEATH DEMAND FOR JURY TRIAL - 1

1 the decedent Selena J Araiza.

2 2. Plaintiffs are informed and believe, and thereon alleges, that at all times mentioned herein  
 3 defendant State of CALIFORNIA (the State”) and does 1 to 100 was and is a public entity  
 4 authorized to conduct business, including supervising and administering roads, roadways,  
 5 traffic conditions, intersections, intersection controls and all other highway and roadway  
 6 issues within the State of California. This includes, but is not limited to, control of the State  
 7 Route 1 Road approximately 0.5 miles south of Santa Rosa Road. (Subject Road”)

8  
 9 3. Plaintiff is ignorant of the true names and capacities of Defendants sued herein as Does 1  
 10 to 100 Inclusive, and therefore sues these Defendants by such fictitious names. Plaintiff will  
 11 Amend this complaint to allege their true names and capacities when ascertained. Plaintiff is  
 12 informed and believes and based thereon alleges that each of these fictitiously named  
 13 defendants are responsible in some manner for the occurrences herein alleged, and that  
 14 Plaintiff’s daughter’s death alleged were proximately caused by the aforementioned  
 15 defendants.  
 16

17  
 18 4. Plaintiff is informed and believes and based thereon alleges that at all times material herein  
 19 each fictitiously named defendant was either the trued defendant or the agent and/ or employer  
 20 of each other defendant and in doing the things alleged herein, was acting within the scope  
 21 and purpose of such agency and with the permission and consent of, and their actions were  
 22 ratified by, the other Defendants.  
 23

#### 24 25 GENERAL ALLEGATIONS

26 5.Plaintiff is informed and believes, and thereon alleges, that at all times mentioned herein

27  
 28 PLAINTIFFS MONICA AND IFRAIN ARAIZA SECOND AMENDED COMPLAINT FOR DAMAGES FOR:  
 1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF PUBLIC PROPERTY  
 2.NEGLIGENCE3. WRONGFUL DEATH DEMAND FOR JURY TRIAL - 1

“defendant” State of CALIFORNIA (the State”) and does 1 to 100 was and is a public entity authorized to conduct business, including supervising and administering roads, roadways, traffic conditions, intersections, intersection controls and all other highway and roadway issues within the State of California. This includes, but is not limited to, control of the State Route 1 Road approximately 0.5 miles south of Santa Rosa Road .

6.. On February 14, 2020 Joseph Hernandez was traveling in his vehicle driving southbound with passenger Selena Josefina Araiza on State Route 1. As a result of improper merging lanes which existed at that time on State Route 1 another vehicle driven by Michael A. Hanson (an employee of the Penitentiary) while traveling on the Northbound on State 1 was unable to safely merge into traffic and traveled across the median line and collided with Selena Josefina Araiza vehicle resulting in her death..

7. Plaintiff is informed, believes and thereon alleges that at all relevant times hereto, Defendants STATE of California and Does 1 through 100, inclusive, improperly owned, operated, managed, designed, planned, engineered, maintained, installed, inspected, repaired Failed to repair and or controlled the subject road on State Route 1 thereby creating dangerous conditions and exposing drivers to dangerous condition.

#### **NOTICE OF CLAIM AGAINST THE STATE OF CALIFORNIA**

8. Withing the time provided by law, Plaintiff filed a claim with the State of California in full compliance with the State of California’s requirements of government code section 910 et seq.. On or about September 15, 2020, the State of California denied Plaintiff’s claim.

By reason of the foregoing, Defendants STATE, and Does 1 through 50, inclusive, and each of them, are liable for, and Plaintiffs are entitled to recover of them, her general, special, actual

PLAI NTIFFS MONICA AND IFRAIN ARAIZA SECOND AMENDED COMPLAINT FOR DAMAGES FOR:  
1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF PUBLIC PROPERTY  
2.NEGLIGENCE3. WRONGFUL DEATH DEMAND FOR JURY TRIAL - 1

1 and compensatory damages, including, but not limited to, her necessary medical and related  
 2 expenses, past, present and future lost earnings, loss of future earning capacity, as well as mental,  
 3 emotional and physical pain and suffering, as proven at time of trial. The total amount of Plaintiffs  
 4 damages are presently unknown but is reasonably believed to be in excess of the minimum  
 5 jurisdictional limit of this Court.

### 7 FIRST CAUSE OF ACTION

#### 8 **Statutory Liability/Dangerous Condition of Public Property Against Defendants**

#### 9 **STATE, and (DOES 1 through 100, inclusive)**

10 9. Plaintiff repeats, realleges, and incorporates by this reference as though set forth in full  
 11 herein all prior allegations of this Complaint.

12 10. Prior to and on February 14, 2020, Defendants STATE, and Does 1 through 100, inclusive,  
 13 and/or their management, administrative, designers, planners, engineers, maintenance  
 14 personnel, inspectors and/or other employees, staff, agents or contractors, acting within the  
 15 course and scope of their duties and/or employment, negligently and improperly owned,  
 16 operated, controlled, designed, planned, engineering, maintained, inspected, repaired, and/or  
 17 failed to repair, State Route 1 Road approximately 0.5 miles south of Santa Rosa Road,  
 18 thereby creating dangerous conditions under *Gov. Code § 830 et seq. thru 835* and exposing  
 19 drivers to dangerous conditions. Prior to this collision there has been substantial amounts of  
 20 complaints and auto collisions near that vicinity as a result of the merging of two lanes into  
 21 one. Moreover drivers tend to speed prior to the merger of this two lanes so they can be the  
 22 lead vehicle. Further, there was not sufficient visible warning signs regarding the merger of  
 23 these two lanes into one. In addition there was a blind curve, blind trap inadequate lighting,  
 24

25 PLAINTIFFS MONICA AND IFRAIN ARAIZA SECOND AMENDED COMPLAINT FOR DAMAGES FOR:  
 26 1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF PUBLIC PROPERTY  
 27 2. NEGLIGENCE 3. WRONGFUL DEATH DEMAND FOR JURY TRIAL - 1  
 28

as this collision occurred at approximately 6:15 pm in February 14, 2021. There should have been median walls and or barricades to prohibit cross traffic and if there were such this auto collision may have been avoided. There was also a lack of warning sign regarding the merging of the two lanes. The witnesses to this collision indicated that there has been a plenty amount of auto collision for a period of time in this vicinity. The STATE undertook to control the Route 1, invited the reliance of motorists on the road and are liable as they created dangerous conditions in doing so. The absence of proper safety measures was done carelessly, negligently, inadequately and improperly and created a hazard, trap and dangerous condition under *Gov. Code § 835*. It also created a peculiar risk, blind curve and trap. Defendants STATE, and Does 1 through 100, inclusive, should have installed at least a barricade separating the south and north bound lanes, proper signage, barricades, other safety equipment and devices, warnings, and warning devices on the State Route 1.

11. The collision and the injury and or death was foreseeable as a consequence of this dangerous condition to Defendants STATE, and Does 1 through 50, inclusive, and, yet, they failed to warn (or adequately warn) drivers.

12. The dangerous conditions created a reasonably foreseeable risk of the kind of injuries which were sustained, and (a) a negligent or wrongful act or omission of an employee of Defendants STATE, and Does 1 through 100, inclusive, created the dangerous conditions; and/or (b) Moreover, they had actual or constructive notice of the dangerous conditions and had sufficient time prior to the injury to have taken measures to protect against the dangerous conditions. These dangerous conditions created a substantial risk of injury when the roadway was used with due care by the public generally as drivers oversteer the roadway for a variety

PLAINTIFFS MONICA AND IFRAIN ARAIZA SECOND AMENDED COMPLAINT FOR DAMAGES FOR:  
 1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF PUBLIC PROPERTY  
 2. NEGLIGENCE 3. WRONGFUL DEATH DEMAND FOR JURY TRIAL - 1

1 of non-negligent circumstances (because of third party negligence, emergencies, mechanical  
 2 failures and other unforeseen circumstances) and a barricade guardrail (and other appropriate  
 3 safety measures listed within this complaint) is required to prevent vehicles from crashing  
 4 against each other.  
 5

6 13. The dangerous conditions and these acts and omissions of Defendants STATE, and Does  
 7 1 through 100, inclusive (and their management, administrative, designers, planners,  
 8 engineers, maintenance personnel, inspectors and/or other employees, staff, agents or  
 9 contractors, acting within the course and scope of their duties), proximately caused Plaintiff's  
 10 injuries.  
 11

12 14. Further, these dangerous conditions were directly attributable wholly or in substantial part  
 13 to a negligent or wrongful act of employees Defendants STATE, and Does 1 through 100,  
 14 inclusive, and these employees had the authority and the funds and other means immediately  
 15 available to take alternative action which would not have created the dangerous condition, and/or  
 16 these employees had the authority and it was his/her/their responsibility to take adequate measures  
 17 to protect against the dangerous condition at the expense of the public entity and the funds and  
 18 other means for doing so were immediately available to him/her/them, and he/she/they had actual  
 19 or constructive notice of the dangerous condition a sufficient time prior to the injury to have taken  
 20 measures to protect against the dangerous condition.  
 21

22 15. Further, signs, warnings or other devices were necessary to warn of these dangerous conditions  
 23 which endangered the safe movement of traffic and which would not be reasonably apparent to,  
 24 and would not have been anticipated by, a person exercising due care.  
 25

26 16. In addition, Defendants STATE, and Does 1 through 100, inclusive, and their employees  
 27

28 PLAINTIFFS MONICA AND IFRAIN ARAIZA SECOND AMENDED COMPLAINT FOR DAMAGES FOR:  
 1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF PUBLIC PROPERTY  
 2. NEGLIGENCE 3. WRONGFUL DEATH DEMAND FOR JURY TRIAL - 1

1 acting within the scope of their employment undertook, gratuitously or for consideration, to avoid,  
 2 remedy and/or abate these dangerous conditions. These undertakings and promises were the kind  
 3 that they recognized as necessary for the protection of third persons. Defendants STATE, and Does  
 4 1 through 100, inclusive, and their employees acting within the scope of their employment failed  
 5 to exercise reasonable care in the performance of these undertakings and promises, the failure to  
 6 exercise reasonable care resulted in physical harm to the third persons; and *either* (a) their  
 7 carelessness increased the risk of such harm, or (b) the undertaking or promises were to perform a  
 8 duty that the other owed to the third persons, or (c) the harm was suffered because either the other  
 9 or the third persons relied on the undertaking.

12 17. The driver of the other vehicle Michael Asunsion Hanson was employed at the department of  
 13 corrections. And the plaintiffs are informed and believe that he was in the course and scope of his  
 14 employment while traveling North on State Route 1. The state of California has a duty to provide  
 15 and build a safe highway such as route 1 for all of the drivers navigating and to provide adequate  
 16 signs, barriers separating the North and South lanes to prevent auto collisions such as what has  
 17 occurred in this instance. Here Michael Asunsion Hanson fully aware that Route 1 Northbound  
 18 merges from two lanes to one lane attempted to speed up and overtake another vehicle, just prior  
 19 to the merging. That attempt was unsuccessful and he lost control of his vehicle and went to the  
 20 Southbound lane, across the median lane and collided with the vehicle Selena Araiza was a  
 21 passenger and killing her within hours of the collision. Michael Asunsion Hanson passed away  
 22 within one month as a result of his vehicle colliding with Selena Ariza's vehicle. There was no  
 23 adequate signs, nor adequate lighting, nor barrier separating Northbound from Southbound nor  
 24 any other safety measures nor adequate maintenance. There has been a substantial amount of auto

25 PLAINTIFFS MONICA AND IFRAIN ARAIZA SECOND AMENDED COMPLAINT FOR DAMAGES FOR:  
 26 1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF PUBLIC PROPERTY  
 27 2.NEGLIGENCE3. WRONGFUL DEATH DEMAND FOR JURY TRIAL - 1  
 28

1 collision occurring in that vicinity. Due to these acts and failures to act and dangerous conditions,  
2 Defendants STATE, and Does 1 through 100, inclusive, and their employees are liable for  
3 Plaintiff's injuries under the Government Code, including, but not limited to; Sections  
4 815(applicable as to the appropriate Department of Correction only), *Sections 820(a), 830(a) thru*  
5 *835.4 including but not limited to 830.6, 830.8, 835, 835.2, 835.4 .*  
6

7 18. This collision was foreseeable to Defendants STATE, and Does 1 through 100, inclusive, and,  
8 yet, they failed to warn (or adequately warn) drivers. It is believed that notice was actually provided  
9 to Defendants STATE, and Does 1 through 100, inclusive as there has been quite a few collisions  
10 occurring at that vicinity prior to this collision.  
11

12 19. The dangerous conditions created a reasonably foreseeable risk of the kind of injuries which  
13 were sustained, and (a) a negligent or wrongful act or omission of an employee of Defendants  
14 STATE, and Does 1 through 100, inclusive, created the dangerous conditions; and/or (b) they had  
15 actual or constructive notice of the dangerous conditions a sufficient time prior to the injury to  
16 have taken measures to protect against the dangerous conditions. These dangerous conditions  
17 created a substantial risk of injury when the roadway was used with due care by the public  
18 generally as drivers who are going at 55 MPH on Route 1 have to merge into one lane traffic with  
19 poor lighting, and other improper roadway route for a variety of non-negligent circumstances  
20 (because of third party negligence, emergencies, mechanical failures and other unforeseen  
21 circumstances) and at minimum a barricade and or proper maintenance is required to prevent  
22 vehicles from falling/crashing to each other..  
23  
24

25 20. The dangerous conditions and these acts and omissions of Defendants STATE, and Does 1  
26 through 100, inclusive (and their management, administrative, designers, planners, engineers,  
27

28 PLAINTIFFS MONICA AND IFRAIN ARAIZA SECOND AMENDED COMPLAINT FOR DAMAGES FOR:  
1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF PUBLIC PROPERTY  
2.NEGLIGENCE3. WRONGFUL DEATH DEMAND FOR JURY TRIAL - 1



1 maintenance personnel, inspectors and/or other employees, staff, agents or contractors, acting  
2 within the course and scope of their duties), proximately caused Plaintiff's injuries and death.

3 21. Further, these dangerous conditions were directly attributable wholly or in substantial part  
4 to a negligent or wrongful act of employees of Defendants STATE, and Does 1 through 100,  
5 inclusive, and these employees had the authority and the funds and other means immediately  
6 available to take alternative action which would not have created the dangerous condition, and/or  
7 these employees had the authority and it was his/her/their responsibility to take adequate measures  
8 to protect against the dangerous condition at the expense of the public entity and the funds and  
9 other means for doing so were immediately available to him/her/them, and he/she/they had actual  
10 or constructive notice of the dangerous condition and had sufficient time prior to the injury to have  
11 taken measures to protect against the dangerous condition. The state of California knew that auto  
12 collision such as this would occur.  
13

14 22. Further, signs, warnings or other devices were necessary to warn of these dangerous conditions  
15 which endangered the safe movement of traffic and which would not be reasonably apparent to,  
16 and would not have been anticipated by, a person exercising due care.  
17

18 23. Further, Defendants STATE, and Does 1 through 100, inclusive, and their employees acting  
19 within the scope of their employment undertook, gratuitously or for consideration, to avoid,  
20 remedy and/or abate these dangerous conditions. These undertakings and promises were the kind  
21 that they recognized as necessary for the protection of third persons. Defendants STATE, and  
22 Does 1 through 100, inclusive, and their employees acting within the scope of their employment  
23 failed to exercise reasonable care in the performance of these undertakings and promises, the  
24 failure to exercise reasonable care resulted in physical harm to the third persons; and *either* (a)  
25

26 PLAINTIFFS MONICA AND IFRAIN ARAIZA SECOND AMENDED COMPLAINT FOR DAMAGES FOR:  
27 1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF PUBLIC PROPERTY  
28 2.NEGLIGENCE3. WRONGFUL DEATH DEMAND FOR JURY TRIAL - 1

1 their carelessness increased the risk of such harm, or (b) the undertaking or promises were to  
2 perform a duty that the other owed to the third persons, or (c) the harm was suffered because either  
3 the other or the third persons relied on the undertaking.

4  
5 24. Due to these acts and failures to act and dangerous conditions, Defendants STATE, and  
6 DOES 1 through 100, inclusive, and their employees are liable for Plaintiff's injuries under the  
7 Government Code, including, but not limited to, Sections 815 (*applicable to the appropriate*  
8 *department of corrections only*), 820(a), 830(a), thru 835.4 which includes but not limited  
9 to 830.6, 830.8, 835, 835.2, 835.4..

10  
11 **SECOND CAUSE OF ACTION**

12 **(Negligence Against DOES 1 - 100 inclusive)**

13 25. Plaintiffs repeats, realleges, and incorporates by this reference as though set forth in full  
14 herein all prior allegations of this Complaint.

15 26. Plaintiff is informed and believes, and thereon alleges, that at said time and place at or  
16 near the subject location, Defendant DOES 1 through 100, inclusive, so negligently and  
17 improperly owned, operated, controlled, designed, planned, engineering, maintained,  
18 inspected, installed, repaired, and/or failed to repair, State Route 1 approximately 0.5 miles  
19 South of Santa Rosa Rd. so as to cause fatal injury to Plaintiff's daughter. Thereby proximately  
20 causing the herein described wrongful death and damages to Decedent Selena Josefina Araiza .  
21

22 27. Defendant DOES 1 through 100, inclusive, and/or their management, administrative, designers,  
23 planners, engineers, maintenance personnel, inspectors and/or other employees, staff, agents or  
24 contractors, acting within the course and scope of their duties and through negligent or wrongful  
25 acts or omissions created, or allowed to be created, a dangerous condition. The installation.  
26  
27

28 PLAINTIFFS MONICA AND IFRAIN ARAIZA SECOND AMENDED COMPLAINT FOR DAMAGES FOR:  
1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF PUBLIC PROPERTY  
2.NEGLIGENCE3. WRONGFUL DEATH DEMAND FOR JURY TRIAL - 1

1 maintenance, repair, operation, monitoring and/or control of State Route 1 were done negligently,  
2 inadequately and improperly and created a hazard, blind curve, trap and dangerous condition. It  
3 also created a peculiar risk and trap as Defendants Does 1 through 100, inclusive, should have  
4 installed signal lights, and warning signs letting drivers know that the lanes were merging,  
5 barricades, other safety equipment and devices, warnings, and warning devices on the road on  
6 State Route 1.  
7

8 28. As a direct and proximate result of the conduct of Defendant DOES 1 through 100, inclusive,  
9 are liable for, and Plaintiffs are entitled to recover of them, her general, special, actual and  
10 compensatory damages, including, but not limited to, her necessary medical and related expenses,  
11 past, present and future lost earnings, loss of future earning capacity, as well as mental, emotional  
12 and physical pain and mental suffering, as proven at time of trial. The total amount of Plaintiffs  
13 damages is presently unknown but is reasonably believed to be in excess of the minimum  
14 jurisdictional limit of this Court.  
15

16  
17 **THIRD CAUSE OF ACTION: WRONGFUL DEATH Against Defendants**

18 **STATE, and (DOES 1 through 100, inclusive)**

19 29. PLAINTIFFS repeat and re-allege paragraphs 1 through 28, inclusive, and incorporates them  
20 herein by reference as though set forth in full.

21 30. As a direct and proximate of each DEFENDANTS' actions or inactions, carelessness,  
22 recklessness, wantonness, and unlawfulness, PLAINTIFFS' daughter suffered fatal injuries.  
23

24 31. As a further direct and proximate result of each DEFENDANTS actions or inactions,  
25 carelessness, recklessness, wantonness, and unlawfulness, PLAINTIFF has suffered economic  
26 damages, including but not limited to monetary contributions and financial support from Decedent.  
27

28 PLAINTIFFS MONICA AND IFRAIN ARAIZA SECOND AMENDED COMPLAINT FOR DAMAGES FOR:  
1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF PUBLIC PROPERTY  
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1 loss of gifts or benefits, household services, noneconomic damages, including but not limited to  
2 being deprived of the love, affection, solace, affection, companionship, society, moral support,  
3 assistance, protection, training and guidance, consortium, services, comfort, care, counsel and  
4 advice of Decedent, and any other damages as permitted by law which includes but not limited to  
5 Government code Section 830.6 et seq. and all other applicable government statutes in an amount  
6 exceeding the minimum jurisdictional requirement of this Court, according to proof.  
7

8 **REQUEST FOR JURY TRIAL**

9 Plaintiffs hereby requests a trial by jury on all claims for relief alleged in, and on all issues  
10 raised by, this Complaint.  
11

12 **PRAYER**

13 WHEREFORE, Plaintiffs demands judgment against Defendants as follows:

- 14 1. For an award of Plaintiffs general, special, actual and compensatory damages as  
15 proven at time of trial, with interest thereon according to law;  
16  
17 2. For an award of the costs incurred by Plaintiffs in bringing and maintaining this action;  
18  
19 3. For such other and further relief which this Court deems just and proper.

20 DATED: December 3, 2021

By: Law Office of Isaac Toveg PLC

21 /S/ ISAAC TOVEG

22 Isaac Toveg, Attorney  
23  
24  
25  
26  
27

28 PLAINTIFFS MONICA AND IFRAIN ARAIZA SECOND AMENDED COMPLAINT FOR DAMAGES FOR:  
1. STATUTORY LIABILITY/ DANGEROUS CONDITION OF PUBLIC PROPERTY  
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CALIFORNIA DEPARTMENT OF TRANSPORTATION - LEGAL DIVISION  
111 Grand Avenue, Suite 11-100, Oakland, California 94612  
Mail: P.O. Box 24325, Oakland, CA 94623-1325  
Telephone: (510) 433-9100, Facsimile: (510) 433-9167

1 ERIN E. HOLBROOK, Chief Counsel  
2 G. MICHAEL HARRINGTON, Deputy Chief Counsel  
3 ARDINE ZAZZERON, Assistant Chief Counsel  
4 R. JEREMIE GINELLI (SBN 225596)  
5 MANELKI ANTHONY (SBN 326205)  
6 California Department of Transportation - Legal Division  
7 111 Grand Avenue, Suite 11-100, Oakland, CA 94612-3717  
8 Mail: P.O. BOX 24325, OAKLAND, CA 94623-1325  
9 Telephone: (510) 433-9100; Facsimile: (510) 433-9167

NO FEE PURSUANT TO GOV'T CODE § 6103

ELECTRONICALLY FILED  
Superior Court of California  
County of Santa Barbara  
Darrel E. Parker, Executive Officer  
12/7/2021 12:47 PM  
By: Miroslava Pena-Bautista, Deputy

10 Attorneys for Defendant STATE OF CALIFORNIA,  
11 acting by and through the DEPARTMENT OF TRANSPORTATION

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 FOR THE COUNTY OF SANTA BARBARA

14 MONICA ARAIZA, and IFRAIN ARAIZA,

Case No. 21CV01049

15 Plaintiffs,

16 NOTICE OF CHANGE OF HANDLING  
17 ATTORNEYS FOR DEFENDANT  
18 STATE OF CALIFORNIA

19 vs.

ASSIGNED FOR ALL PURPOSES TO HON.  
TIMOTHY STAFFEL

20 THE STATE OF CALIFORNIA, and DOES  
21 1 TO 100, INCLUSIVE,

22 Defendants.

Action Filed: March 12, 2021  
Trial Date: None set

23 TO THE CLERK OF THE COURT AND TO ALL PARTIES AND THEIR ATTORNEYS  
24 OF RECORD:

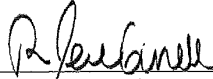
25 PLEASE TAKE NOTICE THAT this matter has been transferred for handling from  
26 Catherine Takayama to Manelki Anthony and R. Jeremie Ginelli of the State of California,  
27 Department of Transportation, located at 111 Grand Avenue, Suite 11-100, Oakland, CA 94612.

28 The new handling attorneys request that the Court and all counsel make note of this change  
of handling attorneys and address for the service of all future documents and correspondence related  
to this matter.

CALIFORNIA DEPARTMENT OF TRANSPORTATION - LEGAL DIVISION  
111 Grand Avenue, Suite 11-100, Oakland, California 94612  
Mail: P.O. Box 24325, Oakland, CA 94623-1325  
Telephone: (510) 433-9100, Facsimile: (510) 433-9167

1 Dated: December 2, 2021

ERIN E. HOLBROOK  
G. MICHAEL HARRINGTON  
ARDINE ZAZZERON  
R. JEREMIE GINELLI  
MANELKI ANTHONY

4 By   
5 Attorneys for Defendant  
6 STATE OF CALIFORNIA, acting by and  
7 through the Department of Transportation  
8  
9  
10  
11  
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28

Case Name: *Monica Araiza v. State of California, et al.*

Case No.: Santa Barbara County Superior Court Case No. 21CV01049

**PROOF OF ELECTRONIC SERVICE**

I am employed in the City of Oakland, State of California. I am over the age of 18 years and not a party to the within action. My business address is 111 Grand Avenue, Oakland, California 94612; MAIL: P.O. BOX 24325, Oakland, CA 94623-1325. On the date set forth below, I served a true copy of the following document(s):

**NOTICE OF CHANGE OF HANDLING ATTORNEYS FOR DEFENDANT STATE OF CALIFORNIA**

on the interested party to said action by the following means:

**[X] (BY ELECTRONIC-MAIL)** by attaching a copy of the document(s) in PDF format sent from [Rosalie.H.Nguyen@dot.ca.gov](mailto:Rosalie.H.Nguyen@dot.ca.gov) to the email addresses of the parties listed below, pursuant to Code of Civil Procedure section 1010.6, subd. (a) and (e), permitting electronic service of notices or documents that may be served by mail, express mail, overnight delivery, or facsimile transmission. No hard copies will follow.

COUNSEL OF RECORD	EMAIL ADDRESSES
<b>Isaac Toveg, Esq.</b> LAW OFFICES OF ISAAC TOVEG 2600 W. Olive Ave., 5th Floor Burbank, CA 91505  <i>Attorney for Plaintiff,</i> <i>Monica Araiza</i>	<a href="mailto:isaactoveg@aol.com">isaactoveg@aol.com</a>
<b>With cc to:</b> <b>R. Jeremie Ginelli, Esq.</b> <b>Manelki Anthony, Esq.</b>  CALIFORNIA DEPT OF TRANSPORTATION- LEGAL DIVISION  <i>Attorneys for Defendant,</i> <i>State of California Dept. of Transportation</i>	<a href="mailto:Jeremie.Ginelli@dot.ca.gov">Jeremie.Ginelli@dot.ca.gov</a>  <a href="mailto:Manelki.Anthony@dot.ca.gov">Manelki.Anthony@dot.ca.gov</a>  <a href="mailto:maria.cordonero@dot.ca.gov">maria.cordonero@dot.ca.gov</a>

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on December 7, 2021, at Fremont, California.

  
ROSALIE NGUYEN, Declarant

**INSTRUCTIONS:** All applicable boxes must be checked, and the specified information must be provided.

- Page 1 of 5



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PLAINTIFF/PETITIONER: Monica Araiza, et al. DEFENDANT/RESPONDENT: State of California, et al.	CASE NUMBER: 21CV01049
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4. b. Provide a brief statement of the case, including any damages. *(If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)*  
Plaintiffs allege damages resulting from an accident that occurred on February 14, 2020. Decedent Selena Araiza was a passenger in a vehicle that collided with another vehicle on southbound State Route 1, near Santa Rosa Road in Lompoc, California.

☐ *(If more space is needed, check this box and attach a page designated as Attachment 4b.)*

5. **Jury or nonjury trial**

The party or parties request ☒ a jury trial ☐ a nonjury trial. *(If more than one party, provide the name of each party requesting a jury trial):*

6. **Trial date**

- a. ☐ The trial has been set for *(date)*:  
b. ☒ No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint *(if not, explain)*:  
c. Dates on which parties or attorneys will not be available for trial *(specify dates and explain reasons for unavailability)*:  
2/18/22 (Prepaid Vacation); 4/1/22-4/8/22 (Prepaid Vacation); 6/3/22- 6/17/22 (Prepaid Vacation); 7/1/22 (Prepaid Vacation);  
8/24/22 -8/31/22 (prepaid vacation); 9/26/22 - 10/7/22 (Trial);1/9/23-1/20/23 (Trial).

7. **Estimated length of trial**

The party or parties estimate that the trial will take *(check one)*:

- a. ☒ days *(specify number)*: 7-9  
b. ☐ hours (short causes) *(specify)*:

8. **Trial representation** *(to be answered for each party)*

The party or parties will be represented at trial ☒ by the attorney or party listed in the caption ☐ by the following:

- a. Attorney:  
b. Firm:  
c. Address:  
d. Telephone number:  
e. E-mail address:  
f. Fax number:  
g. Party represented:

☐ Additional representation is described in Attachment 8.

9. **Preference**

☐ This case is entitled to preference *(specify code section)*:

10. **Alternative dispute resolution (ADR)**

- a. **ADR information package.** Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 of the California Rules of Court for information about the processes available through the court and community programs in this case.  
(1) For parties represented by counsel: Counsel ☒ has ☐ has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.  
(2) For self-represented parties: Party ☐ has ☐ has not reviewed the ADR information package identified in rule 3.221.  
b. **Referral to judicial arbitration or civil action mediation** (if available).  
(1) ☐ This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.  
(2) ☐ Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.  
(3) ☐ This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. *(specify exemption)*:

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PLAINTIFF/PETITIONER: Monica Araiza, et al. DEFENDANT/RESPONDENT: State of California, et al.	CASE NUMBER: 21CV01049
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10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (*check all that apply and provide the specified information*):

	The party or parties completing this form <b>are willing</b> to participate in the following ADR processes ( <i>check all that apply</i> ):	If the party or parties completing this form in the case <b>have agreed</b> to participate in or have already completed an ADR process or processes, indicate the status of the processes ( <i>attach a copy of the parties' ADR stipulation</i> ):
(1) Mediation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for (date): <input type="checkbox"/> Agreed to complete mediation by (date): <input type="checkbox"/> Mediation completed on (date):
(2) Settlement conference	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for (date): <input type="checkbox"/> Agreed to complete settlement conference by (date): <input type="checkbox"/> Settlement conference completed on (date):
(3) Neutral evaluation	<input type="checkbox"/>	<input type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for (date): <input type="checkbox"/> Agreed to complete neutral evaluation by (date): <input type="checkbox"/> Neutral evaluation completed on (date):
(4) Nonbinding judicial arbitration	<input type="checkbox"/>	<input type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete judicial arbitration by (date): <input type="checkbox"/> Judicial arbitration completed on (date):
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete private arbitration by (date): <input type="checkbox"/> Private arbitration completed on (date):
(6) Other ( <i>specify</i> ):	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for (date): <input type="checkbox"/> Agreed to complete ADR session by (date): <input type="checkbox"/> ADR completed on (date):

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PLAINTIFF/PETITIONER: Monica Araiza, et al. DEFENDANT/RESPONDENT: State of California, et al.	CASE NUMBER: 21CV01049
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**11. Insurance**

- a. ☐ Insurance carrier, if any, for party filing this statement (*name*):
- b. Reservation of rights: ☐ Yes ☐ No
- c. ☐ Coverage issues will significantly affect resolution of this case (*explain*):

**12. Jurisdiction**

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

☐ Bankruptcy ☐ Other (*specify*):

Status:

**13. Related cases, consolidation, and coordination**

- a. ☐ There are companion, underlying, or related cases.
- (1) Name of case:
- (2) Name of court:
- (3) Case number:
- (4) Status:
- ☐ Additional cases are described in Attachment 13a.
- b. ☐ A motion to ☐ consolidate ☐ coordinate will be filed by (*name party*):

**14. Bifurcation**

- ☐ The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (*specify moving party, type of motion, and reasons*):

**15. Other motions**

- ☒ The party or parties expect to file the following motions before trial (*specify moving party, type of motion, and issues*):  
Potential Demurrer and Motion to Strike portions of the Second Amended Complaint, Motion for Judgment on Pleadings, Motion for Summary Judgment as applicable.

**16. Discovery**

- a. ☐ The party or parties have completed all discovery.
- b. ☒ The following discovery will be completed by the date specified (*describe all anticipated discovery*):

Party	Description	Date
Defendant Caltrans	Written Discovery	June, 2022
Defendant Caltrans	Depositions	30 days before trial
Defendant Caltrans	Document Subpoenas	Per Statutory Period
Defendant Caltrans	Expert Depositions	Per Code

- c. ☐ The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (*specify*):

CM-110

PLAINTIFF/PETITIONER: Monica Araiza, et al. DEFENDANT/RESPONDENT: State of California, et al.	CASE NUMBER: 21CV01049
--	---------------------------

**17. Economic litigation**

- a. ☐ This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. ☐ This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed *(if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case)*:

**18. Other issues**

- ☐ The party or parties request that the following additional matters be considered or determined at the case management conference *(specify)*:

**19. Meet and confer**

- a. ☒ The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court *(if not, explain)*:
- b. ☐ After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following *(specify)*:

20. Total number of pages attached *(if any)*: \_\_\_\_\_

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: 12/21/2021

Manelki Anthony  
(TYPE OR PRINT NAME)

  
(SIGNATURE OF PARTY OR ATTORNEY)

\_\_\_\_\_  
(TYPE OR PRINT NAME)

  
(SIGNATURE OF PARTY OR ATTORNEY)

☐ Additional signatures are attached.

Case Name: *Monica Araiza v. State of California, et al.*

Case No.: Santa Barbara County Superior Court Case No. 21CV01049

**PROOF OF ELECTRONIC SERVICE**

I am employed in the City of Oakland, State of California. I am over the age of 18 years and not a party to the within action. My business address is 111 Grand Avenue, Oakland, California 94612; MAIL: P.O. BOX 24325, Oakland, CA 94623-1325. On the date set forth below, I served a true copy of the following document(s):

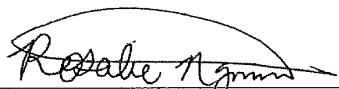
**CASE MANAGEMENT STATEMENT  
(January 12, 2022; 8:30am; Dept. 3)**

on the interested party to said action by the following means:

**[X] (BY ELECTRONIC-MAIL)** by attaching a copy of the document(s) in PDF format sent from [Rosalie.H.Nguyen@dot.ca.gov](mailto:Rosalie.H.Nguyen@dot.ca.gov) to the email addresses of the parties listed below, pursuant to Code of Civil Procedure section 1010.6, subd. (a) and (e), permitting electronic service of notices or documents that may be served by mail, express mail, overnight delivery, or facsimile transmission. No hard copies will follow.

COUNSEL OF RECORD	EMAIL ADDRESSES
Isaac Toveg, Esq. LAW OFFICES OF ISAAC TOVEG 2600 W. Olive Ave., 5th Floor Burbank, CA 91505  <i>Attorney for Plaintiff, Monica Araiza</i>	<a href="mailto:isaactoveg@aol.com">isaactoveg@aol.com</a>
With cc to: R. Jeremie Ginelli, Esq. Manelki Anthony, Esq.  CALIFORNIA DEPT OF TRANSPORTATION- LEGAL DIVISION  <i>Attorneys for Defendant, State of California Dept. of Transportation</i>	<a href="mailto:Jeremie.Ginelli@dot.ca.gov">Jeremie.Ginelli@dot.ca.gov</a>  <a href="mailto:Manelki.Anthony@dot.ca.gov">Manelki.Anthony@dot.ca.gov</a>  <a href="mailto:maria.cordonero@dot.ca.gov">maria.cordonero@dot.ca.gov</a>

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on December 21, 2021, at Fremont, California.

  
ROSALIE NGUYEN, Declarant

CM-110

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Law Office of Isaac Toveg PLC, Isaac Toveg (SBN 269729) 2600 W Olive Ave, 5th floor, Burbank CA, 91505  TELEPHONE NO.: 8183335202 FAX NO. (Optional): E-MAIL ADDRESS: isaactoveg@aol.com ATTORNEY FOR (Name): Monica Araiza, et al	<b>FOR COURT USE ONLY</b>  ELECTRONICALLY FILED Superior Court of California County of Santa Barbara Darrel E. Parker, Executive Officer 12/22/2021 12:22 AM By: Jazmine Killian, Deputy
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Barbara</b> STREET ADDRESS: 213-C East Cook Street MAILING ADDRESS: 213-C East Cook Street CITY AND ZIP CODE: Santa Maria 93454 BRANCH NAME: Cook Division	
PLAINTIFF/PETITIONER: Monica Araiza, et al DEFENDANT/RESPONDENT: State of California, et al	
<b>CASE MANAGEMENT STATEMENT</b>  (Check one): <input checked="" type="checkbox"/> <b>UNLIMITED CASE</b> <input type="checkbox"/> <b>LIMITED CASE</b> (Amount demanded exceeds \$25,000) (Amount demanded is \$25,000 or less)	CASE NUMBER: 21CV01049
A CASE MANAGEMENT CONFERENCE is scheduled as follows: Date: January 12, 2022 Time: 08:30 AM Dept.: 3 Div.: Civil Room: Address of court (if different from the address above):  <input checked="" type="checkbox"/> <b>Notice of Intent to Appear by Telephone, by (name):</b> Law Office of Isaac Toveg, Isaac Toveg	

**INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.**

1. **Party or parties (answer one):**
  - a. ☒ This statement is submitted by party (name): Law Office of Isaac Toveg
  - b. ☐ This statement is submitted jointly by parties (names):
2. **Complaint and cross-complaint (to be answered by plaintiffs and cross-complainants only)**
  - a. The complaint was filed on (date): 03/12/2021
  - b. ☐ The cross-complaint, if any, was filed on (date):
3. **Service (to be answered by plaintiffs and cross-complainants only)**
  - a. ☒ All parties named in the complaint and cross-complaint have been served, have appeared, or have been dismissed.
  - b. ☐ The following parties named in the complaint or cross-complaint
    - (1) ☐ have not been served (specify names and explain why not):
    - (2) ☐ have been served but have not appeared and have not been dismissed (specify names):
    - (3) ☐ have had a default entered against them (specify names):
  - c. ☐ The following additional parties may be added (specify names, nature of involvement in case, and date by which they may be served):
4. **Description of case**
  - a. Type of case in ☒ complaint ☐ cross-complaint (Describe, including causes of action):  
 This is a fatal automobile collision where there were dangerous condition of public property. Plaintiff alleges three causes of actions, mainly one, (1) dangerous condition of public property, (2) negligence, (3) wrongful death.

CM-110

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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4. b. Provide a brief statement of the case, including any damages. *(If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)*  
Plaintiff alleges both general and special damages. The general damages include but are not limited to, grief, inconvenience, depression, loss of support, loss of guidance, emotional distress. The special damage amount is approximately over \$20,000.00

☐ *(If more space is needed, check this box and attach a page designated as Attachment 4b.)*

5. **Jury or nonjury trial**

The party or parties request ☒ a jury trial ☐ a nonjury trial. *(If more than one party, provide the name of each party requesting a jury trial):*

6. **Trial date**

- a. ☐ The trial has been set for *(date)*:  
b. ☒ No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint *(if not, explain)*:

- c. Dates on which parties or attorneys will not be available for trial *(specify dates and explain reasons for unavailability)*:  
April 11-18th, 2022 (trial), April 22nd-May 2nd, 2022 (trial), July 5th-13th, 2022 (trial)

7. **Estimated length of trial**

The party or parties estimate that the trial will take *(check one)*:

- a. ☒ days *(specify number)*: 7-9  
b. ☐ hours (short causes) *(specify)*:

8. **Trial representation (to be answered for each party)**

The party or parties will be represented at trial ☒ by the attorney or party listed in the caption ☐ by the following:

- a. Attorney:  
b. Firm:  
c. Address:  
d. Telephone number:  
e. E-mail address:  
f. Fax number:  
g. Party represented:  
☐ Additional representation is described in Attachment 8.

9. **Preference**

☐ This case is entitled to preference *(specify code section)*:

10. **Alternative dispute resolution (ADR)**

- a. **ADR information package.** Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 of the California Rules of Court for information about the processes available through the court and community programs in this case.  
(1) For parties represented by counsel: Counsel ☒ has ☐ has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.  
(2) For self-represented parties: Party ☐ has ☐ has not reviewed the ADR information package identified in rule 3.221.  
b. **Referral to judicial arbitration or civil action mediation (if available).**  
(1) ☐ This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.  
(2) ☐ Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.  
(3) ☐ This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. *(specify exemption)*:

CM-110

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (*check all that apply and provide the specified information*):

	The party or parties completing this form <b>are willing</b> to participate in the following ADR processes ( <i>check all that apply</i> ):	If the party or parties completing this form in the case <b>have agreed</b> to participate in or have already completed an ADR process or processes, indicate the status of the processes ( <i>attach a copy of the parties' ADR stipulation</i> ):
(1) Mediation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for (date): <input type="checkbox"/> Agreed to complete mediation by (date): <input type="checkbox"/> Mediation completed on (date):
(2) Settlement conference	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for (date): <input type="checkbox"/> Agreed to complete settlement conference by (date): <input type="checkbox"/> Settlement conference completed on (date):
(3) Neutral evaluation	<input type="checkbox"/>	<input type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for (date): <input type="checkbox"/> Agreed to complete neutral evaluation by (date): <input type="checkbox"/> Neutral evaluation completed on (date):
(4) Nonbinding judicial arbitration	<input type="checkbox"/>	<input type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete judicial arbitration by (date): <input type="checkbox"/> Judicial arbitration completed on (date):
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete private arbitration by (date): <input type="checkbox"/> Private arbitration completed on (date):
(6) Other ( <i>specify</i> ):	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for (date): <input type="checkbox"/> Agreed to complete ADR session by (date): <input type="checkbox"/> ADR completed on (date):



CM-110

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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**11. Insurance**

- a. ☐ Insurance carrier, if any, for party filing this statement *(name)*:
- b. Reservation of rights: ☐ Yes ☐ No
- c. ☐ Coverage issues will significantly affect resolution of this case *(explain)*:

**12. Jurisdiction**

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

☐ Bankruptcy ☐ Other *(specify)*:

Status:

**13. Related cases, consolidation, and coordination**

- a. ☐ There are companion, underlying, or related cases.
- (1) Name of case:
- (2) Name of court:
- (3) Case number:
- (4) Status:
- ☐ Additional cases are described in Attachment 13a.
- b. ☐ A motion to ☐ consolidate ☐ coordinate will be filed by *(name party)*:

**14. Bifurcation**

☐ The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action *(specify moving party, type of motion, and reasons)*:

**15. Other motions**

☐ The party or parties expect to file the following motions before trial *(specify moving party, type of motion, and issues)*:

**16. Discovery**

- a. ☐ The party or parties have completed all discovery.
- b. ☒ The following discovery will be completed by the date specified *(describe all anticipated discovery)*:

<u>Party</u>	<u>Description</u>	<u>Date</u>
Plaintiff Araiza	Written Discovery	June, 2022
Plaintiff Araiza	Depositions	30 days before trial
Plaintiff Araiza	Document Subpoenas	Per Statutory Period
Plaintiff Araiza	Expert Depositions	Per Code

- c. ☐ The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated *(specify)*:

CM-110

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
--	--------------

**17. Economic litigation**

- a. ☐ This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. ☐ This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case):

**18. Other issues**

- ☐ The party or parties request that the following additional matters be considered or determined at the case management conference (specify):

**19. Meet and confer**

- a. ☒ The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (if not, explain):
- b. ☐ After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (specify):

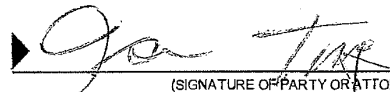
20. Total number of pages attached (if any): \_\_\_\_\_

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: 12/21/2021

Isaac Toveg

(TYPE OR PRINT NAME)

▶  (SIGNATURE OF PARTY OR ATTORNEY)

(TYPE OR PRINT NAME)

▶ \_\_\_\_\_ (SIGNATURE OF PARTY OR ATTORNEY)

☐ Additional signatures are attached.

SUM-100

SECOND AMENDED SUMMONS  
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):

The State of California and Does 1 to 100 Inclusive

YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

Monica Araiza and Ifraia Araiza

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

ELECTRONICALLY FILED  
Superior Court of California  
County of Santa Barbara  
Darrel E. Parker, Executive Officer  
12/22/2021 12:22 AM  
By: Jazmine Killian, Deputy

Officer

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. ¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): SUPERIOR Court of California, County of Santa Barbara; 312-C-East Cook ST., Santa Maria, CA. 93456-5369

CASE NUMBER: (Número del Caso):

21CV01049

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Law Office of Isaac Toveg, Isaac Toveg, 2600 W. Olive Ave., suite 563, Burbank, Ca. 91505; Phone: 818-333-5202

DATE:

(Fecha) 12/22/2021

Clerk, by  
(Secretario)

/s/ Jazmine Killian

Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):  
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)  
☐ other (specify):
4. ☐ by personal delivery on (date):

Form Adopted for Mandatory Use  
Judicial Council of California  
SUM-100 (Rev. July 1, 2009)

SUMMONS

Page 1 of 1  
Code of Civil Procedure §§ 412.20, 465  
[www.courts.ca.gov](http://www.courts.ca.gov)

For your protection and privacy, please press the Clear  
This Form button after you have printed the form.

Print this form

Save this form

Clear this form

ELECTRONICALLY FILED  
Superior Court of California  
County of Santa Barbara  
Darrel E. Parker, Executive Officer  
1/7/2022 11:37 AM  
By: Jazmine Killian, Deputy

1 ERIN E. HOLBROOK, Chief Counsel (NO FEE PURSUANT TO GOV. CODE, § 6103)  
2 G. MICHAEL HARRINGTON, Deputy Chief Counsel  
3 ARDINE ZAZZERON, Assistant Chief Counsel  
4 MANELKI ANTHONY, Deputy Attorney, State Bar No. 326205  
5 R. JEREMIE GINELLI, Deputy Attorney, State Bar No. 225596  
6 California Department of Transportation - Legal Division  
7 111 Grand Avenue, Suite 11-100, Oakland, CA 94612  
8 Mail to: P.O. Box 24325, Oakland, CA 94623  
9 Telephone: (510) 433-9100, Facsimile: (510) 433-9167

10 Attorneys for Defendant State of California Department of Transportation

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SANTA BARBARA**

MONICA ARAIZA, AND IFRAIN ARAIZA, ) Case No. 21CV01049

Plaintiffs, )

v. )

THE STATE OF CALIFORNIA, AND DOES 1 )  
TO 100 INCLUSIVE )

Defendants. )

**NOTICE OF POSTING JURY FEES  
PURSUANT TO C.C.P. § 631**

**TO ALL PARTIES AND THEIR ATTORNEY'S OF RECORD:**

PLEASE TAKE NOTICE that Defendant, THE STATE OF CALIFORNIA DEPARTMENT  
OF TRANSPORTATION, hereby post jury fees in the amount of \$150.00.

Dated: January 7 2022

ERIN HOLBROOK  
G. MICHAEL HARRINGTON  
ARDINE ZAZZERON

By Manelki Anthony  
MANELKI ANTHONY R. JEREMIE  
GINELLI  
Attorneys for Defendant THE STATE OF  
CALIFORNIA DEPARTMENT OF  
TRANSPORTATION

Case Name: *Monica Araiza, et al. v. State of California, et al.*  
Case No.: Santa Barbara County Superior Court Case No. 21CV01049

**PROOF OF SERVICE**

I, the undersigned, say: I am, and was at all times herein mentioned, employed in the City of Oakland, and County of Alameda, over the age of 18 years and not a party to the within action or proceedings; that my business address is 111 Grand Avenue, Suite 11-100, Oakland, California 94612; Mail: P.O. Box 24325, Oakland, CA 94623-1325; that on the date set forth below, I served the within:

**1. NOTICE OF POSTING JURY FEES PURSUANT TO C.C.P §631**

on all interested parties in said action by:

[√] (BY ELECTRONIC-MAIL) by attaching a copy of the document(s) in PDF format sent from [alanna.hayman@dot.ca.gov](mailto:alanna.hayman@dot.ca.gov) to the email addresses of the parties listed below, pursuant to Code of Civil Procedure section 1010.6, subd. (a) and (e), permitting electronic service of notices or documents that may be served by mail, express mail, overnight delivery, or facsimile transmission. No hard copies will follow.

COUNSEL OF RECORD	PARTY REPRESENTED
Isaac Toveg, Esq. Law Offices of Isaac Toveg 2600 W. Olive Ave., 5 <sup>th</sup> Floor Burbank, CA 91505 <a href="mailto:isaactoveg@aol.com">isaactoveg@aol.com</a>	<i>Attorney for Plaintiff, Monica Araiza</i>
With cc to: Manelki Anthony, Esq. Jeremie Ginelli, Esq. Maria Cordonero <a href="mailto:Manelki.anthony@dot.ca.gov">Manelki.anthony@dot.ca.gov</a> <a href="mailto:Jeremie.ginelli@dot.ca.gov">Jeremie.ginelli@dot.ca.gov</a> <a href="mailto:Maria.cordonero@dot.ca.gov">Maria.cordonero@dot.ca.gov</a>	<i>Attorneys for California Dept. of Transportation</i>

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 7, 2022 at Sacramento, California.

*Alanna Hayman*  
ALANNA HAYMAN, Declarant

CALIFORNIA DEPARTMENT OF TRANSPORTATION - LEGAL DIVISION  
111 Grand Avenue, Suite 11-100, Oakland, CA 94612  
Mail: P.O. Box 24325, Oakland, CA 94623-1325  
Telephone: (510) 433-9100, Facsimile: (510) 433-9167

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA BARBARA**

Dated and Entered: 01/12/2022 Time: 8:30 AM  
Judicial Officer: Timothy J Staffel  
Deputy Clerk: Cynthia Barajas-Garcia; Monica Magana Dept: SM3  
Deputy Sheriff: Louis Tanore  
Court Reporter: Tanya Gutierrez Case No: 21CV01049

---

**Monica Araiza et al vs The State of California**

Parties Present:

Ginelli, R Jeremie Attorney for Defendant, via Zoom  
Toveg, Isaac Attorney for Plaintiff, via Zoom

---

**NATURE OF PROCEEDINGS: Case Management Conference**

Mr. Ginelli presents an update to the court and indicates a third amended complaint will be filed by plaintiff's counsel within a couple of weeks. Mr. Toveg requests additional time to file the third amended complaint. The Court indicates a stipulation must be submitted forthwith. A discussion is held.

**THE COURT MAKES THE FOLLOWING ORDERS:**

This matter is continued to 04/20/2022 at 8:30 a.m. in Department SM3.

Counsel shall file a stipulation which includes the 01/28/2022 deadline date to file the third amended complaint, forthwith.

Mr. Ginelli shall provide notice.

DARREL E. PARKER, EXECUTIVE OFFICER

Minutes Prepared by:

Cynthia Barajas-Garcia , Deputy

CALIFORNIA DEPARTMENT OF TRANSPORTATION - LEGAL DIVISION  
111 Grand Avenue, Suite 11-100, Oakland, California 94612  
Mail: P.O. Box 24325, Oakland, CA 94623-1325  
Telephone: (510) 433-9100; Facsimile: (510) 433-9167

1 ERIN E. HOLBROOK, Chief Counsel  
2 G. MICHAEL HARRINGTON, Deputy Chief Counsel  
3 ARDINE ZAZZERON, Assistant Chief Counsel  
4 R. JEREMIE GINELLI (SBN 225596)  
5 MANELKI ANTHONY (SBN 326205)  
6 California Department of Transportation - Legal Division  
7 111 Grand Avenue, Suite 11-100, Oakland, CA 94612-3717  
8 **Mail: P.O. BOX 24325, OAKLAND, CA 94623-1325**  
9 Telephone: (510) 433-9100; Facsimile: (510) 433-9167

10 Attorneys for Defendant STATE OF CALIFORNIA,  
11 acting by and through the DEPARTMENT OF TRANSPORTATION

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SANTA BARBARA

MONICA ARAIZA, and IFRAIN ARAIZA,  
Plaintiffs,  
vs.  
THE STATE OF CALIFORNIA, and DOES  
1 TO 100, INCLUSIVE,  
Defendants.

Case No. 21CV01049

**NOTICE OF CASE MANAGEMENT  
CONFERENCE**

ASSIGNED FOR ALL PURPOSES TO HON.  
TIMOTHY STAFFEL

Action Filed: March 12, 2021  
Trial Date: None set

TO THE CLERK OF THE COURT AND TO ALL PARTIES AND THEIR ATTORNEYS  
OF RECORD:

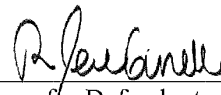
PLEASE TAKE NOTICE THAT at the January 12, 2022 Case Management Conference, the  
Court set a Further Case Management Conference for April 20, 2022 at 8:30 a.m. in Department 3 of  
this Court.

PLEASE TAKE NOTICE THAT if the Defendants file a demurrer and/or motion to strike,  
these hearings will take place in conjunction with the Case Management Conference on April 20,  
2022 at 8:30 a.m.

CALIFORNIA DEPARTMENT OF TRANSPORTATION - LEGAL DIVISION  
111 Grand Avenue, Suite 11-100, Oakland, California 94612  
Mail: P.O. Box 24325, Oakland, CA 94623-1325  
Telephone: (510) 433-9100, Facsimile: (510) 433-9167

1 Dated: January 12, 2022

ERIN E. HOLBROOK  
G. MICHAEL HARRINGTON  
ARDINE ZAZZERON  
R. JEREMIE GINELLI  
MANELKI ANTHONY

4 By   
5 Attorneys for Defendant  
6 STATE OF CALIFORNIA, acting by and  
7 through the Department of Transportation  
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Case Name: *Monica Araiza v. State of California, et al.*

Case No.: Santa Barbara County Superior Court Case No. 21CV01049

**PROOF OF ELECTRONIC SERVICE**

I am employed in the City of Oakland, State of California. I am over the age of 18 years and not a party to the within action. My business address is 111 Grand Avenue, Oakland, California 94612; MAIL: P.O. BOX 24325, Oakland, CA 94623-1325. On the date set forth below, I served a true copy of the following document(s):

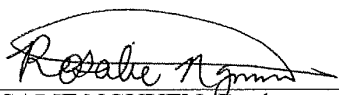
**NOTICE OF CASE MANAGEMENT CONFERENCE**

on the interested party to said action by the following means:

**[X] (BY ELECTRONIC-MAIL)** by attaching a copy of the document(s) in PDF format sent from [Rosalie.H.Nguyen@dot.ca.gov](mailto:Rosalie.H.Nguyen@dot.ca.gov) to the email addresses of the parties listed below, pursuant to Code of Civil Procedure section 1010.6, subd. (a) and (e), permitting electronic service of notices or documents that may be served by mail, express mail, overnight delivery, or facsimile transmission. No hard copies will follow.

COUNSEL OF RECORD	EMAIL ADDRESSES
Isaac Toveg, Esq. LAW OFFICES OF ISAAC TOVEG 2600 W. Olive Ave., 5th Floor Burbank, CA 91505  <i>Attorney for Plaintiff, Monica Araiza</i>	<a href="mailto:isaactoveg@aol.com">isaactoveg@aol.com</a>
With cc to: R. Jeremie Ginelli, Esq. Manelki Anthony, Esq.  CALIFORNIA DEPT OF TRANSPORTATION- LEGAL DIVISION  <i>Attorneys for Defendant, State of California Dept. of Transportation</i>	<a href="mailto:Jeremie.Ginelli@dot.ca.gov">Jeremie.Ginelli@dot.ca.gov</a>  <a href="mailto:Manelki.Anthony@dot.ca.gov">Manelki.Anthony@dot.ca.gov</a>  <a href="mailto:maria.cordonero@dot.ca.gov">maria.cordonero@dot.ca.gov</a>

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on January 13, 2022, at Fremont, California.

  
ROSALIE NGUYEN, Declarant

Pursuant to CRC 2.259 this document has been electronically filed by the MP  
Superior Court of California, County of Santa Barbara, on 1/20/2022

1 Isaac Toveg, Esq. SBN 269729  
2 LAW OFFICES OF ISAAC TOVEG  
3 2600 West Olive Avenue, 5<sup>th</sup> Floor  
4 Burbank, California 91505  
5 Telephone No.: (818) 333-5202  
6 Facsimile No.: (818) 333-5203

**FILED**  
SUPERIOR COURT of CALIFORNIA  
COUNTY of SANTA BARBARA  
**01/24/2022**  
Darrel E. Parker, Executive Officer  
BY Delabra, Blanca Deputy Clerk

7  
8 SUPERIOR COURT FOR THE STATE OF CALIFORNIA  
9 THE COUNTY OF LOS ANGELES

10 Monica Araiza, and Ifrain Araiza )

Case No.: 21CV01049

11 Plaintiffs, )

JOINT STIPULATION AND

12 vs. )

~~PROPOSED~~ ORDER FOR LEAVE FOR

13 The State of California, and Does 1-100 )

PLAINTIFF TO FILE THIRD

14 Inclusive )

AMENDED COMPLAINT

15 Defendants  
16  
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21 **TO THE HONORABLE COURT:**

22 This Joint Stipulation for Leave to File Plaintiff Monica Araiza and Ifrain Araiza's Third  
23 Amended Complaint is entered by and between Plaintiff Monica Araiza and Ifrain Araiza  
24 ("Plaintiffs") and Defendant The State of California and Does 1-100 Inclusive, herein after  
25 collectively referred to as the "Parties".  
26  
27  
28

**WHEREAS**, on or about March 12, 2021, Plaintiffs filed the original complaint.

**WHEREAS**, on or about July 6th, 2021, Plaintiffs filed the First Amended Complaint.

**WHEREAS**, on or about December 6, 2021, Plaintiffs filed the Second Amended Complaint.

JOINT STIPULATION AND ~~PROPOSED~~ ORDER FOR LEAVE FOR PLAINTIFF TO FILE THIRD AMENDED  
COMPLAINT

1 **WHEREAS** after meeting and conferring on the Second Amended Complaint, the Parties agreed  
2 Plaintiff can and will file a Third Amended Complaint.  
3

4 **WHEREAS** the parties desire to avoid the costs associated with a motion for leave to file the  
5 Plaintiff's Third Amended Complaint and to avoid unnecessary waste of the Court's resources;  
6

7 **THEREFORE, IT IS HEREBY STIPULATED** by and between the Parties through their  
8 respective counsel of record as follows:  
9

- 10 1. Subject to the courts approval, Plaintiff shall be granted leave to file her Third Amended  
11 Complaint and said Third Amended Complaint shall be filed by January 28, 2022.  
12

13 **IT IS SO STIPULATED.**

14 DATED: January 13, 2022

Law Office of Isaac Toveg

16  
17   
18 Isaac Toveg

19  
20 Attorney for Plaintiff

21 DATED: January 14, 2021

22  
23 

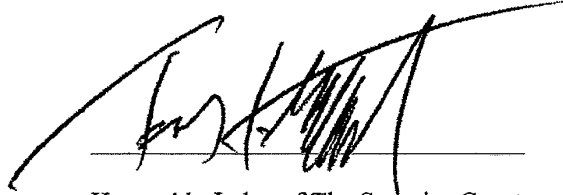
24 Attorney for Defendant  
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26  
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28

JOINT STIPULATION AND ~~PROPOSED~~ ORDER FOR LEAVE FOR PLAINTIFF TO FILE THIRD AMENDED  
COMPLAINT

1 **IT IS SO ORDERED**

2  
3 The joint stipulation by the parties for leave for plaintiff to file Third Amended  
4 Complaint is Granted.

5  
6  
7 DATE: 01/21/2022



Honorable Judge of The Superior Court

**Timothy J. Staffel**

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JOINT STIPULATION AND ~~PROPOSED~~ ORDER FOR LEAVE FOR PLAINTIFF TO FILE THIRD AMENDED  
COMPLAINT

ELECTRONICALLY FILED  
Superior Court of California  
County of Santa Barbara  
Darrel E. Parker, Executive Officer  
1/28/2022 8:31 PM  
By: Jazmine Killian, Deputy

1 Law Offices Of Isaac Toveg  
2 Isaac Toveg SBN 269729  
3 2600 W Olive Ave 5<sup>th</sup> Floor  
4 Burbank CA 91505  
5 818-333-5202  
6 Isaactoveg@aol.com

OK per 1/24/22 Order

7 SUPERIOR COURT OF CALIFORNIA

8 COUNTY OF SANTA BARBARA

9 MONICA ARAIZA AND DOES 1 TO 5,

Case No.: 21CV01049

10 Plaintiff,

11 vs.  
12 THE STATE OF CALIFORNIA, AND BUREAU OF  
13 PRISONS WESTERN REGIONAL OFFICE -FCI  
LOMPOC AND DOES 2- 100 INCLUSIVE

14 Defendant

**PLAINTIFFS MONICA AND IFRAIN  
ARAIZA THIRD AMENDED  
COMPLAINT FOR DAMAGES FOR:**

**1. STATUTORY LIABILITY/  
DANGEROUS CONDITION OF PUBLIC  
PROPERTY**

**2.NEGLIGENCE**

**3. WRONGFUL DEATH**

**DEMAND FOR JURY TRIAL**

21 Plaintiffs, Monica Araiza and Ifrain Araiza, file their Third Amended Complaint("TAC")  
22 against Defendants the State of California, and Bureau of Prisons Western Regional Office FCI-  
23 LOMPOC and does 2 to 100 Inclusive, alleging the following:

24 THE PARTIES

25  
26 1. Plaintiffs, Monica Araiza, and Ifrain Araiza ("Plaintiffs") were at all times relevant hereto  
27 were, residents in the city of Lemon Grove, California. Further plaintiffs were the parents  
28 (mother and father of the decedent Selena J Araiza). Selena J Araiza (the decedent ) had no  
PLAINTIFFS MONICA AND IFRAIN ARAIZA THIRD AMENDED COMPLAINT FOR DAMAGES FOR:

1 children and was not married at the time of this fatal collision. Plaintiffs are the only heir of  
2 the decedent Selena J Araiza.

3  
4 2. Plaintiffs are informed and believe, and thereon allege, that at all times mentioned herein  
5 defendants State of CALIFORNIA (the State”), and does 2 to 100 was and is a public  
6 entity authorized to conduct business, including supervising and administering roads,  
7 roadways, traffic conditions, intersections, intersection controls and all other highway  
8 and roadway issues within the State of California. This includes, but is not limited to,  
9 control of the State Route 1 Road approximately 0.5 miles south of Santa Rosa Road.  
10 (Subject Road”)  
11

12  
13 2a. Further defendant Bureau of Prisons Western Regional Office FCI-Lompoc, Hereinafter  
14 (“FCI- LOMPOC”), was the employer of Mr. Micheal Asunsion Hanson ("Hanson") on the day  
15 of this fatal collision. He was within the course and scope of his employment at the time he  
16 fatally crashed into the vehicle where Selena J. Araiza was a passenger in.  
17

18 3. Plaintiff is ignorant of the true names and capacities of Defendants sued herein as Does 2  
19 to 100 Inclusive, and therefore sues these Defendants by such fictitious names. Plaintiff will  
20 Amend this complaint to allege their true names and capacities when ascertained. Plaintiff is  
21 informed and believes and based thereon alleges that each of these fictitiously named  
22 defendants are responsible in some manner for the occurrences herein alleged, and that  
23 Plaintiff’s daughter’s death alleged were proximately caused by the aforementioned  
24 defendants.  
25

26  
27 4. Plaintiff is informed and believes and based thereon alleges that at all times material herein  
28 each fictitiously named defendant was either the trued defendant or the agent and/ or employer

PLAINTIFFS MONICA AND IFRAIN ARAIZA THIRD AMENDED COMPLAINT FOR DAMAGES FOR:

1 of each other defendant and in doing the things alleged herein, was acting within the scope  
2 and purpose of such agency and with the permission and consent of, and their actions were  
3 ratified by the other Defendants.  
4

5  
6 **GENERAL ALLEGATIONS**  
7

8 5. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned herein  
9 “defendant” State of CALIFORNIA (the State”) and does 2 to 100 was and is a public entity  
10 authorized to conduct business, including supervising and administering roads, roadways,  
11 traffic conditions, intersections, intersection controls and all other highway and roadway  
12 issues within the State of California. This includes, but is not limited to, control of the State  
13 Route 1 Road approximately 0.5 miles south of Santa Rosa Road .  
14

15 6. On February 14, 2020, Joseph Hernandez was the driver in a vehicle driving southbound  
16 with passenger Selena Josefina Araiza on State Route 1. As a result of improper merging  
17 lanes which existed at that time on State Route 1, the vehicle driven by Hanson, driving  
18 northbound on State Route 1, who also was an employee of defendant Bureau of Prisons -  
19 FCI LOMPOC, was unable to safely merge into traffic and collided with Selena Josefina  
20 Araizas’ vehicle resulting in her death.  
21

22 7. Plaintiff is informed, believes and thereon alleges that at all relevant times hereto,  
23 Defendants STATE of California and Does 2 through 100, inclusive, improperly owned,  
24 operated, managed, designed, planned, engineered, maintained, installed, inspected, repaired,  
25 Failed to repair and or controlled the subject road on State Route 1 thereby creating dangerous  
26 conditions and exposing drivers to dangerous condition.  
27  
28

PLAINTIFFS MONICA AND IFRAIN ARAIZA THIRD AMENDED COMPLAINT FOR DAMAGES FOR:

1 7a. Plaintiffs were informed, believe, and therefore allege, that defendant (FCI-LOMPOC)  
2 employed Hanson, in which he was using his own vehicle in the scope and course of his  
3 employment.  
4

5 **NOTICE OF CLAIM AGAINST THE STATE OF CALIFORNIA**

6 8. Within the time provided by law, Plaintiff Monica Araiza filed a claim with the State of  
7 California, in full compliance with the State of California's requirements of government code  
8 section 910 et seq... On or about September 15, 2020, the State of California denied Plaintiff's  
9 claim.  
10

11 By reason of the foregoing, Defendants STATE, and Does 2 through 50, inclusive, and each  
12 of them, are liable for, and Plaintiffs are entitled to recover of them, her general, special, actual  
13 and compensatory damages, including, but not limited to, her necessary medical and related  
14 expenses, past, present and future lost earnings, loss of future earning capacity, as well as mental,  
15 emotional and physical pain and suffering, as proven at time of trial. The total amount of Plaintiffs  
16 damages are presently unknown but is reasonably believed to be in excess of the minimum  
17 jurisdictional limit of this Court.  
18  
19  
20

21 **NOTICE OF CLAIM AGAINST FCI-LOMPOC**

22 8a. Within the time provided by law, Plaintiffs Araiza filed a claim with the Bureau of  
23 Prisons Western Regional Office, and FCI-LOMPOC, in full compliance with the appropriate  
24 federal agency. As of this date the bureau of prisons have not replied to Plaintiffs' claim.  
25

26 By reason of the foregoing defendant FCI-LOMPOC and does 2 to 50, and each of them are liable  
27 for, and Plaintiffs are entitled to recover of them, her general, special, actual and compensatory  
28 damages, including, but not limited to, her necessary medical and related expenses, past, present

PLAINTIFFS MONICA AND IFRAIN ARAIZA THIRD AMENDED COMPLAINT FOR DAMAGES FOR:



1 and future lost earnings, loss of future earning capacity, as well as mental, emotional and physical  
2 pain and suffering, as proven at time of trial. The total amount of Plaintiffs damages are presently  
3 unknown but is reasonably believed to be in excess of the minimum jurisdictional limit of this  
4 Court.  
5

6  
7 **FIRST CAUSE OF ACTION**

8 **Statutory Liability/Dangerous Condition of Public Property Against Defendants STATE,**  
9 **BUREAU OF PRISONS (FCI-LOMPOC) and (DOES 2 through 100, inclusive)**

10 9. Plaintiff repeats, realleges paragraphs 1 thru 8 and incorporates by this reference as though  
11 set forth in full herein all prior allegations of this Complaint.

12  
13 10. Prior to and on , Defendants STATE, and Does 2 through 100, inclusive, and/or their  
14 management, administrative, designers, planners, engineers, maintenance personnel,  
15 inspectors and/or other employees, staff, agents or contractors, acting within the course and  
16 scope of their duties and/or employment, negligently and improperly owned, operated,  
17 controlled, designed, planned, engineering, maintained, inspected, repaired, and/or failed to  
18 repair, State Route 1 Road approximately 0.5 miles south of Santa Rosa Road .  
19

20  
21 thereby creating dangerous conditions under *Gov. Code § 835* and exposing drivers to  
22 dangerous conditions. There should have been median walls, and barricades to prohibit cross  
23 traffic. There was also a lack of warning sign regarding the merging of the two lanes. The  
24 STATE undertook to control the, invited the reliance of motorists on the road and are liable  
25 as they created dangerous conditions in doing so. The absence of proper safety measures and  
26 maintenance was done carelessly, negligently, inadequately and improperly and created a  
27 hazard, trap and dangerous condition under *Gov. Code § 835*. It also created a peculiar risk  
28

PLAINTIFFS MONICA AND IFRAIN ARAIZA THIRD AMENDED COMPLAINT FOR DAMAGES FOR:

1 and trap. Defendants STATE, and Does 2 through 100, inclusive, should have installed a  
2 barricade separating the south and north bound lanes, proper signage, barricades, other safety  
3 equipment and devices, warnings, and warning devices on the State Route 1.

4  
5 11. The collision was foreseeable to Defendants STATE, and Does 2 through 50, inclusive,  
6 and, yet, they failed to warn (or adequately warn) drivers.

7  
8 12. The dangerous conditions created a reasonably foreseeable risk of the kind of injuries  
9 which were sustained, and (a) a negligent or wrongful act or omission of an employee of  
10 Defendants STATE, and Does 2 through 100, inclusive, created the dangerous conditions;  
11 and/or (b) they had actual or constructive notice of the dangerous conditions a sufficient time  
12 prior to the injury to have taken measures to protect against the dangerous conditions. These  
13 dangerous conditions created a substantial risk of injury when the roadway was used with due  
14 care by the public generally as drivers oversteer the roadway for a variety of non-negligent  
15 circumstances (because of third party negligence, emergencies, mechanical failures and other  
16 unforeseen circumstances) and a barricade guardrail (and other appropriate safety measures  
17 listed within this complaint) is required to prevent vehicles from crashing each other.

18  
19  
20  
21 13. The dangerous conditions and these acts and omissions of Defendants STATE, and Does  
22 2 through 100, inclusive (and their management, administrative, designers, planners,  
23 engineers, maintenance personnel, inspectors and/or other employees, staff, agents or  
24 contractors, acting within the course and scope of their duties), proximately caused Plaintiff's  
25 injuries.  
26

27  
28 14. Further, these dangerous conditions were directly attributable wholly or in substantial part

PLAINTIFFS MONICA AND IFRAIN ARAIZA THIRD AMENDED COMPLAINT FOR DAMAGES FOR:

- I

1 to a negligent or wrongful act of employees Defendants STATE, and Does 2 through 100,  
2 inclusive, and these employees had the authority and the funds and other means immediately  
3 available to take alternative action which would not have created the dangerous condition, and/or  
4 these employees had the authority and it was his/her/their responsibility to take adequate measures  
5 to protect against the dangerous condition at the expense of the public entity and the funds and  
6 other means for doing so were immediately available to him/her/them, and he/she/they had actual  
7 or constructive notice of the dangerous condition a sufficient time prior to the injury to have taken  
8 measures to protect against the dangerous condition.  
9  
10

11  
12 15. Further, signs, warnings, properly maintaining the land or road, or other devices were  
13 necessary to warn of these dangerous conditions which endangered the safe movement of traffic  
14 and which would not be reasonably apparent to, and would not have been anticipated by, a person  
15 exercising due care.  
16

17 16. In addition, Defendants STATE, and Does 2 through 100, inclusive, and their employees  
18 acting within the scope of their employment undertook, gratuitously or for consideration, to avoid,  
19 remedy and/or abate these dangerous conditions. These undertakings and promises were the kind  
20 that they recognized as necessary for the protection of third persons. Defendants STATE, and Does  
21 2 through 100, inclusive, and their employees acting within the scope of their employment failed  
22 to exercise reasonable care in the performance of these undertakings and promises, the failure to  
23 exercise reasonable care resulted in physical harm to the third persons; and *either* (a) their  
24 carelessness increased the risk of such harm, or (b) the undertaking or promises were to perform a  
25 duty that the other owed to the third persons, or (c) the harm was suffered because either the other  
26 or the third persons relied on the undertaking.  
27  
28

PLAINTIFFS MONICA AND IFRAIN ARAIZA THIRD AMENDED COMPLAINT FOR DAMAGES FOR:

1 17. The driver of the other vehicle Michael Asunsion Hanson was employed at FCI-LOMPOC.  
2 And the plaintiffs are informed and believe that he was in the course and scope of his employment  
3 while traveling North on State Route 1. The state of California has a duty to provide and build a  
4 safe highway such as route 1 for all of the drivers navigating and to provide adequate signs, barriers  
5 separating the North and South lanes to prevent auto collisions such as what has occurred in this  
6 instance. Here Michael Asunsion Hanson fully aware that Route 1 Northbound merges from two  
7 lanes to one lane, attempted to speed up and overtake another vehicle, just prior to the merging.  
8 That attempt was unsuccessful and he lost control of his vehicle and went to the Southbound lane.  
9 across the median lane and collided with the vehicle Selena Araiza was a passenger in and killing  
10 her within hours of the collision. Michael Asunsion Hanson passed away within one month as a  
11 result of his vehicle colliding with Selena Ariza's vehicle. There was no adequate signs, nor  
12 adequate lighting, nor barrier separating Northbound from Southbound nor any other safety  
13 measures nor adequate maintenance. There has been a substantial amount of auto collisions  
14 occurring in that vicinity. Due to these acts and failures to act and dangerous conditions,  
15 Defendants STATE, and Does 2 through 100, inclusive, and their employees are liable for  
16 Plaintiff's injuries under the Government Code, including, but not limited to, Sections 830(a) thru  
17 835.4 including but not limited to ,835.2, 835.4.

18 17a. Defendant FCI-LOMPOC are liable for plaintiffs injuries under the government code which  
19 includes but not limited to section 815, and 820(a).

20 18. The collision was foreseeable to Defendants STATE, and Does 2 through 100, inclusive, and,  
21 yet, they failed to warn (or adequately warn) drivers. It is believed that notice was actually provided  
22 to Defendants STATE, and Does 2 through 100, inclusive.

23 PLAINTIFFS MONICA AND IFRAIN ARAIZA THIRD AMENDED COMPLAINT FOR DAMAGES FOR:

1 18a. Further, the automobile collision was foreseeable to defendants FCI-LOMPOC AND DOES  
2 2 TO 100 inclusive as when they have one of their employee drive his vehicle in the course and  
3 scope of his employment, it is foreseeable that he can be involved in an automobile collision which  
4 can result in a fatal crash as that is what happened in this suit.  
5

6 19. The dangerous conditions created a reasonably foreseeable risk of the kind of injuries which  
7 were sustained, and (a) a negligent or wrongful act or omission of an employee of Defendants  
8 STATE, and FCI-LOMPOC, and Does 2 through 100, inclusive, created the dangerous conditions;  
9 and/or (b) they had actual or constructive notice of the dangerous conditions a sufficient time prior  
10 to the injury to have taken measures to protect against the dangerous conditions. These dangerous  
11 conditions created a substantial risk of injury when the roadway was used with due care by the  
12 public generally as drivers who are going at 55 MPH on Route 1 have to merge into one lane traffic  
13 with poor lighting, and other improper roadway route for a variety of non-negligent circumstances  
14 (because of third party negligence, emergencies, mechanical failures and other unforeseen  
15 circumstances) and a barricade is required to prevent vehicles from falling/crashing to each other..  
16

17 20. The dangerous conditions and these acts and omissions of Defendants STATE, and Does 2  
18 through 100, inclusive (and their management, administrative, designers, planners, engineers,  
19 maintenance personnel, inspectors and/or other employees, staff, agents or contractors, acting  
20 within the course and scope of their duties), proximately caused Plaintiff's injuries.  
21

22 21. Further, these dangerous conditions were directly attributable wholly or in substantial part  
23 to a negligent or wrongful act of employees of Defendants STATE, and Does 2 through 100,  
24 inclusive, and these employees had the authority and the funds and other means immediately  
25 available to take alternative action which would not have created the dangerous condition, and/or  
26

27 PLAINTIFFS MONICA AND IFRAIN ARAIZA THIRD AMENDED COMPLAINT FOR DAMAGES FOR:  
28

1 these employees had the authority and it was his/her/their responsibility to take adequate measures  
2 to protect against the dangerous condition at the expense of the public entity and the funds and  
3 other means for doing so were immediately available to him/her/them, and he/she/they had actual  
4 or constructive notice of the dangerous condition a sufficient time prior to the injury to have taken  
5 measures to protect against the dangerous condition.  
6

7  
8 22. Further, signs, warnings or other devices were necessary to warn of these dangerous conditions  
9 which endangered the safe movement of traffic and which would not be reasonably apparent to,  
10 and would not have been anticipated by, a person exercising due care.  
11

12 23. Further, Defendants STATE, and Does 2 through 100, inclusive, and their employees acting  
13 within the scope of their employment undertook, gratuitously or for consideration, to avoid,  
14 remedy and/or abate these dangerous conditions. These undertakings and promises were the kind  
15 that they recognized as necessary for the protection of third persons. Defendants STATE, and  
16 Does 2 through 100, inclusive, and their employees acting within the scope of their employment  
17 failed to exercise reasonable care in the performance of these undertakings and promises, the  
18 failure to exercise reasonable care resulted in physical harm to the third persons; and *either* (a)  
19 their carelessness increased the risk of such harm, or (b) the undertaking or promises were to  
20 perform a duty that the other owed to the third persons, or (c) the harm was suffered because either  
21 the other or the third persons relied on the undertaking.  
22  
23  
24

25 24. Due to these acts and failures to act and dangerous conditions, Defendants STATE, and  
26 Does 2 through 100, inclusive, and their employees are liable for Plaintiff's injuries under the  
27 Government Code, including, but not limited to, Sections, *830(a), through 835.4, (excluding*  
28 *830.6 and 830.8)*

PLAINTIFFS MONICA AND IFRAIN ARAIZA THIRD AMENDED COMPLAINT FOR DAMAGES FOR:

1 24a. Due to these acts and failures to act, the FCI-LOMPOC are liable for their employees  
2 actions while driving in the course and scope of their employment under the government code  
3 including but not limited to section 815 and 820a.  
4

5  
6 **SECOND CAUSE OF ACTION**

7  
8 **(Negligence Against Defendant FCI-LOMPOC AND DOES 2 - 100 inclusive)**

9 25. Plaintiff repeats, realleges paragraphs 1 thru 24a, and incorporates by this reference as  
10 though set forth in full herein all prior allegations of this Complaint.  
11

12 26. Plaintiffs allege, that at said time and place at or near the subject location, Defendants  
13 FCI-LOMPOC Employee Hanson committed wrongful acts which proximately caused the  
14 automobile collision that killed Ms. Araiza.  
15

16 27. Defendant FCI-LOMPOC is responsible for the acts of employees and agents including  
17 Hansen, under the theory of respondeat superior. Further, Defendant FCI-LOMPOC is vicariously  
18 liable for acts and omission of their employees, including Hanson, in the course and scope of their  
19 employment pursuant to California Government Code 815.2a and 820a.  
20

21 28. Hanson was negligent while driving his vehicle northbound on U.S 1, where he carelessly  
22 drove across the median line and collided with the vehicle driving on the southbound lanes and  
23 killing Ms. Araiza who was the passenger of the vehicle that was struck by Hanson vehicle. As a  
24 result of Hanson's negligently driving his vehicle into the oncoming southbound traffic on State  
25 Route 1, Hanson destroyed the relationship between the decedent Selena Araiza and the plaintiffs,  
26 and as legally, proximately, foreseeably and actually caused severe emotional damages, including  
27 the loss of society, companionship, emotional distress, economic and non economic damages  
28

PLAINTIFFS MONICA AND IFRAIN ARAIZA THIRD AMENDED COMPLAINT FOR DAMAGES FOR:

1 according to proof at the time of trial.

2 29. Further DOES 2 through 100, inclusive, so negligently and improperly owned, operated,  
3 controlled, designed, planned, engineering, maintained, inspected, installed, repaired, and/or  
4 failed to repair, State Route 1 approximately 0.5 miles South of Santa Rosa Rd. so as to cause  
5 fatal injury to Plaintiffs' daughter. Thereby proximately causing the herein described wrongful  
6 death and damages to Plaintiffs Selena Josefina Araiza .  
7

8  
9 30. Defendant Does 2 through 100 is responsible for the acts of employees and agents including  
10 Hansen Under the theory of respondeat superior. DOES 2 through 100, inclusive, and/or their  
11 management, administrative, designers, planners, engineers, maintenance personnel, inspectors  
12 and/or other employees, staff, agents or contractors, acting within the course and scope of their  
13 duties and through negligent or wrongful acts or omissions created, or allowed to be created, a  
14 dangerous condition. The installation, maintenance, repair, operation, monitoring and/or control  
15 of State Route 1 were done negligently, inadequately and improperly and created a hazard, trap  
16 and dangerous condition. It also created a peculiar risk and trap as Defendants Does 2 through  
17 100, inclusive, should have installed signal lights, and warning signs letting drivers know that the  
18 lanes were merging, barricades, other safety equipment and devices, warnings, and warning  
19 devices on the road on State Route 1.  
20  
21  
22

23  
24 31. As a direct and proximate result of the conduct of Defendant FCI-LOMPOC's employee  
25 Hanson, and or DOES 2 through 100, inclusive, are liable for, and Plaintiff is entitled to recover  
26 of them, her general, special, actual and compensatory damages, including, but not limited to, her  
27 necessary medical and related expenses, past, present and future lost earnings, loss of future  
28 earning capacity, as well as mental, emotional and physical pain and mental suffering, as proven

PLAINTIFFS MONICA AND IFRAIN ARAIZA THIRD AMENDED COMPLAINT FOR DAMAGES FOR:

- 1



1 at time of trial. The total amount of Plaintiff's damages is presently unknown but is reasonably  
2 believed to be in excess of the minimum jurisdictional limit of this Court.

3  
4  
5 **THIRD CAUSE OF ACTION: WRONGFUL DEATH Against Defendants STATE, against**  
6 **FCI-LOMPOC, and (DOES 2 through 100, inclusive)**

7  
8 32. PLAINTIFF realleges paragraphs 1 through 31, inclusive, and incorporates them herein by  
9 reference as though set forth in full.

10 33. As a direct and proximate of each DEFENDANTS' actions or inactions, carelessness,  
11 recklessness, wantonness, and unlawfulness, PLAINTIFF suffered fatal injuries.

12  
13 34. These were wrongful acts done in the course of employment which permits then the designated  
14 beneficiaries or issues of the decedent to recover damages as they are entitled for their own  
15 independent injury and loss under CCP 377.60 and 377.62.

16  
17 35. As a further direct and proximate result of each DEFENDANTS actions or inactions,  
18 carelessness, recklessness, wantonness, and unlawfulness, PLAINTIFFS' has suffered economic  
19 damages, including but not limited to monetary contributions and financial support from  
20 PLAINTIFF, loss of gifts or benefits, household services, noneconomic damages, including but  
21 not limited to being deprived of the love, affection, solace, companionship, society, moral support,  
22 assistance, protection, training and guidance, consortium, services, comfort, care, counsel and  
23 advice of PLAINTIFF, and any other damages as permitted by law which includes but not limited  
24 to government code section 830a, through 835.

25  
26  
27 36. Further, FCI-LOMPOC is responsible for the acts of their employees and agents, including  
28 Hanson, under the theory of vicarious liability for acts and omissions of their employees

PLAINTIFFS MONICA AND IFRAIN ARAIZA THIRD AMENDED COMPLAINT FOR DAMAGES FOR:

1 undertaken in the course and scope of their employment pursuant to California Government Code  
2 815.2a and 820a.

3  
4 **REQUEST FOR JURY TRIAL**

5 Plaintiffs hereby requests a trial by jury on all claims for relief alleged in, and on all issues  
6 raised by, this Complaint.

7  
8 **PRAYER**

9 WHEREFORE, Plaintiff demands judgment against Defendants as follows:

- 10 1. For an award of Plaintiffs general, special, actual and compensatory damages as  
11 proven at time of trial, with interest thereon according to law;  
12  
13 2. For an award of the costs incurred by Plaintiffs in bringing and maintaining this action;  
14  
15 3. For such other and further relief which this Court deems just and proper.

16 Electronic signature is equivalent to a live signature.

17 DATED: January 28th, 2022

By: Law Office of Isaac Toveg PLC

18 /S/ ISAAC TOVEG

19 Isaac Toveg, Attorney  
20  
21  
22  
23  
24  
25  
26  
27  
28

PLAINTIFFS MONICA AND IFRAIN ARAIZA THIRD AMENDED COMPLAINT FOR DAMAGES FOR:

**PROOF OF SERVICE**

I, the undersigned, say: I am over 18 years of age, employed in the County of Los Angeles, California, in which the within-mentioned service occurred; and that I am not a party to the subject case. My business address is 2600 West Olive Avenue, 5<sup>th</sup> Floor, Burbank, California 91505.

On January 28, 2022, I served the following document(s):

1. PLAINTIFFS THIRD AMENDED COMPLAINT, PLAINTIFFS THIRD AMENDED SUMMONS,  
To the following :

A. Bureau of Prisons Western Regional Office  
Appropriate agency: FCI LOMPOC CA 93436,

B. The State Of California  
[www.dot.ca.gov](http://www.dot.ca.gov)

( ) BY MAIL. I am familiar with this firm's practice of collection and processing correspondence for mailing with the United States Postal Service, and that the correspondence shall be deposited with the United States Postal Service this same day in the ordinary course of business pursuant to Code of Civil Procedure, §1013a.

( ) BY FAX. A copy of said document(s) were delivered by facsimile transmission to the addressee pursuant to Code of Civil Procedure §1013(e):

( X ) BY Email. I caused said document(s) to be delivered electronically to the addressee pursuant to Code of Civil Procedure §1011.

I declare under the penalty of perjury, under the laws of the State of California that the foregoing is true and correct. Executed this 1/28/22, in Burbank, CA 91505.

Diana Adon  
/S/ Diana Adon  
Declarant

PLAINTIFFS MONICA AND IFRAIN ARAIZA THIRD AMENDED COMPLAINT FOR DAMAGES FOR:

**THIRD AMENDED SUMMONS**  
**(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:**  
**(AVISO AL DEMANDADO):**

The State of California, and Bureau of Prisons Western Regional Office- FCI Lompoc, and Does 2 -

**YOU ARE BEING SUED BY PLAINTIFF:**  
**(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

Monica Araiza and Ifrain Araiza

SUM-100

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)  
ELECTRONICALLY FILED  
Superior Court of California  
County of Santa Barbara  
Darrel E. Parker, Executive Officer  
128/2022 8:31 PM  
By: Jazmine Killian, Deputy

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. ¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): Superior Court of California, County of Santa Barbara: Santa María - Cook, 312 - C East Cook Street, Santa María, CA 93454

CASE NUMBER: (Número del Caso):  
21CV01049

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

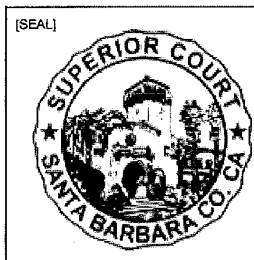
Law Office of Isaac Toveg PLC, Isaac Toveg (SBN: 269729), 2600 W. Olive Ave, 5th floor, Burbank, CA 91325, (818)333-5202

DATE:  
(Fecha) 1/28/22

Clerk, by  
(Secretario) /s/ Jazmine Killian, Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



**NOTICE TO THE PERSON SERVED: You are served**

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):  
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)  
☐ other (specify):
4. ☐ by personal delivery on (date):

Form Adopted for Mandatory Use  
Judicial Council of California  
SUM-100 [Rev. July 1, 2009]

**SUMMONS**

Page 1 of 1  
Code of Civil Procedure §§ 412.20, 465  
[www.courts.ca.gov](http://www.courts.ca.gov)

For your protection and privacy, please press the Clear  
This Form button after you have printed the form.

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ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME AND ADDRESS): Law Office of Isaac Toveg PLC, Isaac Toveg (SBN: 269729) 2600 W. Olive Ave, 5th floor, Burbank, CA 91505	TELEPHONE NO.: 818-333-5202	FOR COURT USE ONLY <b>ELECTRONICALLY FILED</b> Superior Court of California County of Santa Barbara Darrel E. Parker, Executive Officer 1/28/2022 8:31 PM By: Jazmine Killian, Deputy
ATTORNEY FOR (NAME): Plaintiff Monica Araiza and Ifrain Araiza		
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA BARBARA</b> <input type="checkbox"/> Santa Barbara-Anacapa <input checked="" type="checkbox"/> Santa Maria-Cook <input type="checkbox"/> Lompoc Division 1100 Anacapa Street    312-C East Cook Street    115 Civic Center Plaza Santa Barbara, CA 93101    Santa Maria, CA 93454    Lompoc, CA 93436		
PLAINTIFF: Monica Araiza, Ifrain Araiza  DEFENDANT: The State of California and Does 1 - 100 Inclusive		
<b>AMENDMENT TO COMPLAINT</b> <b>(Fictitious / Incorrect Name)</b>		CASE NUMBER:  21CV01049

☒ **FICTITIOUS NAME (No order required)**

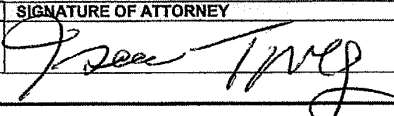
Upon the filing of the complaint, the plaintiff, being ignorant of the true name of the defendant and having designated the defendant in the complaint by the fictitious name of:

<b>FICTITIOUS NAME</b>
Does 1

and having discovered the true name of the defendant to be:

<b>TRUE NAME</b>
Bureau of Prisons Western Regional Office - FCI Lompoc

amends the complaint by substituting the true name for the fictitious name wherever it appears on the complaint.

DATE	TYPE OR PRINT NAME	SIGNATURE OF ATTORNEY
1/28/2022	Isaac Toveg	

☐ **INCORRECT NAME (Order required)**

The plaintiff, having designated a defendant in the complaint by the incorrect name of:

<b>INCORRECT NAME</b>

and having discovered the true name of the defendant to be:

<b>TRUE NAME</b>

amends the complaint by substituting the true name for the incorrect name wherever it appears on the complaint.

DATE	TYPE OR PRINT NAME	SIGNATURE OF ATTORNEY

**ORDER**

THE COURT ORDERS the amendment approved and filed.

Dated: 1/28/2022

\_\_\_\_\_  
Judge of the Superior Court

CALIFORNIA DEPARTMENT OF TRANSPORTATION - LEGAL DIVISION  
111 Grand Avenue, Suite 11-100, Oakland, California 94612  
Mail: P.O. Box 24325, Oakland, CA 94623-1325  
Telephone: (510) 433-9100, Facsimile: (510) 433-9167

1 ERIN E. HOLBROOK, Chief Counsel  
2 G. MICHAEL HARRINGTON, Deputy Chief Counsel  
3 ARDINE ZAZZERON, Assistant Chief Counsel  
4 R. JEREMIE GINELLI (SBN 225596)  
5 MANELKI ANTHONY (SBN 326205)  
6 California Department of Transportation - Legal Division  
7 111 Grand Avenue, Suite 11-100, Oakland, CA 94612-3717  
8 **Mail: P.O. BOX 24325, OAKLAND, CA 94623-1325**  
9 Telephone: (510) 433-9100; Facsimile: (510) 433-9167

10 Attorneys for Defendant STATE OF CALIFORNIA,  
11 acting by and through the DEPARTMENT OF TRANSPORTATION

ELECTRONICALLY FILED  
Superior Court of California  
County of Santa Barbara  
Darrel E. Parker, Executive Officer  
2/25/2022 8:55 AM  
By: Jazmine Killian, Deputy

NO FEE PURSUANT TO GOV'T CODE § 6103

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13  
14 FOR THE COUNTY OF SANTA BARBARA

15 MONICA ARAIZA, and IFRAIN ARAIZA,

Case No. 21CV01049

16 Plaintiffs,

17 vs.

18 THE STATE OF CALIFORNIA, and DOES  
19 1 TO 100, INCLUSIVE,

20 Defendants.

**DECLARATION OF MANELKI  
ANTHONY IN SUPPORT OF  
AUTOMATIC EXTENSION AND  
REGARDING GOOD FAITH ATTEMPT  
TO MEET AND CONFER PURSUANT TO  
CODE OF CIVIL PROCEDURE  
SECTION 430.41(a)(2) and 435.5(a)(2);**

ASSIGNED FOR ALL PURPOSES TO HON.  
TIMOTHY STAFFEL

Action Filed: March 12, 2021  
Trial Date: None set

21 ///

22 I, MANELKI ANTHONY, declare as follows:

23 1. I am an attorney at law, employed by the California Department of Transportation  
24 ("State"). I am licensed to practice in all courts of law in the State of California. I have personal  
25 knowledge of the facts set forth in this declaration and if called as a witness could and would  
26 testify as set forth herein.

27 2. The State intends to file a demurrer and/or motion to strike to Plaintiff Monica  
28 Araiza's ("Plaintiff") Third Amended Complaint in this action. Before the State can do so, the

CALIFORNIA DEPARTMENT OF TRANSPORTATION - LEGAL DIVISION  
111 Grand Avenue, Suite 11-100, Oakland, California 94612  
Mail: P.O. Box 24325, Oakland, CA 94623-1325  
Telephone: (510) 433-9100, Facsimile: (510) 433-9167

1 State is required to complete a meet and confer process with the party who filed the pleading that  
2 the State's intends to demurrer to or file a motion to strike against, at least five days before the date  
3 when the responsive pleading is due. We have not been able to complete the meet and confer  
4 process. I have not previously requested an automatic extension of time. Therefore, on timely  
5 filing and serving a declaration that meets the requirements of Code of Civil Procedure section  
6 430.41(a) and 435.5(a), the State is entitled to an automatic 30-day extension of time within which  
7 to file a responsive pleading.

8 3. I made a good faith attempt to meet and confer with Plaintiff's counsel, Mr. Issac  
9 Toveg, at least five days before the date the State's response to Plaintiff's Third Amended  
10 Complaint was due. I have been unable to complete the meet and confer process, and the parties  
11 are still engaging in a good faith effort to resolve the concerns raised by the State.

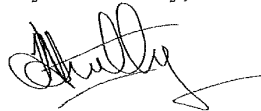
12 4. On February 24, 2022, I sent Mr. Toveg via email, a detailed correspondence  
13 identifying deficiencies with the Third Amended Complaint and intention to have a telephone  
14 conversation to further discuss the State's concerns. A true and correct copy of my correspondence  
15 to counsel for Plaintiff is attached herein as **Exhibit A**.

16 5. On February 24, 2022 I called Mr. Toveg's office to discuss the State's concerns  
17 with the Third Amended Complaint. Since Mr. Toveg was unavailable, I left a voicemail. I  
18 followed up with an e-mail offering to schedule a telephone call to discuss further.

19 6. I intend to continue the meet and confer process in good faith in compliance with  
20 Code of Civil Procedure sections 431.41 and 435.5.

21 I declare under penalty of perjury under the laws of the State of California that the  
22 foregoing is true and correct.

23 Executed in Hayward, California on the 24<sup>th</sup> day of February, 2022.

24 

25 By: \_\_\_\_\_

26 MANELKI ANTHONY

**EXHIBIT A**



**From:** Anthony, Manelki@DOT  
**To:** Isaac Toveg  
**Cc:** Ginelli, Jeremie@DOT  
**Subject:** Araiza v. State of CA et.al - Meet and Confer regarding the Third Amended Complaint  
**Date:** Thursday, February 24, 2022 9:50:00 AM  
**Attachments:** image003.png

---

Dear Counsel,

This is a meet-and-confer letter pursuant to Code of Civil Procedure sections 430.41 and 435.5(a) concerning the Second Amended Complaint ("TAC") filed by Plaintiff Monica Araiza. I wanted to briefly outline the deficiencies in the TAC before I call you to discuss further. All deficiencies discussed below are mostly the same deficiencies outlined in my letter to you dated December 22, 2021 concerning the Second Amended Complaint:

1. Plaintiff Ifrain Araiza remains as a Plaintiff in the TAC – as outlined in detail in my correspondence to you dated December 22, 2021, Plaintiff Ifrain Araiza's claims against Caltrans fail to state any cause of action and are subject to general demurrer because of the failure to comply with the mandatory Tort Claims Act. Plaintiff Ifrain remains named throughout the body of the TAC although he is removed from the Caption. The heading of TAC also includes Ifrain Araiza's name. TAC also refer to "Plaintiff" and "Plaintiffs" throughout the body seemingly referring to both Monica and Ifrain Araiza. If Ifrain Araiza removed, his name has to be entirely removed from the TAC.
2. The TAC further states generally that the State is liable under the Gov. Code, including but not limited to "Sections 830 (a) through 835.4". (Paragraphs 17, 35). In Paragraph 24, the TAC states that the STATE and their employees are liable for Plaintiff's injuries under the Government Code, including, but not limited to, Sections 830 (a) through 835.4 (excluding 830.6 and 830.8). Government Code Sections 830 (a) through 835.4 include various definitions and immunities that do not form basis for liability under a Dangerous Conditions of Public Property Cause of Action or Wrongful Death Cause of Action. Therefore, these sections are subject to both general Demurrer and Motions to Strike.

We are happy to continue our meet and confer efforts in detail. I will call you later today to discuss further. I am hopeful that we can reach an amicable resolution out of court. We will be filing a Meet and Confer Declaration which allows us an automatic 30 day extension to file our Response.

Thank You.

Manelki Anthony  
Deputy Attorney  
California Department of Transportation  
Bay Area Legal Office  
111 Grand Avenue, Suite 11-162  
Oakland, CA 94623

Office : (510) 433-9100  
Cell : (415) 845-6141

 State of California |  Caltrans

CONFIDENTIALITY NOTICE

This is a privileged attorney-client/attorney work-product communication. It is for the sole use of the intended recipient(s). Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message. Do not print, copy, or forward.

CALIFORNIA DEPARTMENT OF TRANSPORTATION - LEGAL DIVISION  
111 Grand Avenue, Suite 11-100, Oakland, CA 94612  
Mail: P.O. Box 24325, Oakland, CA 94623-1325  
Telephone: (510) 433-9100, Facsimile: (510) 433-9167

Case Name: *Monica Araiza v. State of California, et al.*  
Case No.: Santa Barbara County Superior Court Case No. 21CV01049

**PROOF OF SERVICE**

I, the undersigned, say: I am, and was at all times herein mentioned, employed in the City of Oakland, and County of Alameda, over the age of 18 years and not a party to the within action or proceedings; that my business address is 111 Grand Avenue, Suite 11-100, Oakland, California 94612; Mail: P.O. Box 24325, Oakland, CA 94623-1325; that on the date set forth below, I served the within:

**1. DECLARATION OF MANELKI ANTHONY IN SUPPORT OF AUTOMATIC EXTENSION AND REGARDING GOOD FAITH ATTEMPT TO MEET AND CONFER PURSUANT TO CODE OF CIVIL PROCEDURE SECTION 430.41(a)(2) and 435.5(a)(2)**

on all interested parties in said action by:

[✓] **(BY ELECTRONIC-MAIL)** by attaching a copy of the document(s) in PDF format sent from [alanna.hayman@dot.ca.gov](mailto:alanna.hayman@dot.ca.gov) to the email addresses of the parties listed below, pursuant to Code of Civil Procedure section 1010.6, subd. (a) and (e), permitting electronic service of notices or documents that may be served by mail, express mail, overnight delivery, or facsimile transmission. No hard copies will follow.

COUNSEL OF RECORD	PARTY REPRESENTED
Isaac Toveg, Esq. Law Offices of Isaac Toveg 2600 W. Olive Ave., 5 <sup>th</sup> Floor Burbank, CA 91505 <a href="mailto:isaactoveg@aol.com">isaactoveg@aol.com</a>	<i>Attorney for Plaintiff, Monica Araiza</i>
With cc to: Manelki Anthony, Esq. Jeremie Ginelli, Esq. Maria Cordonero <a href="mailto:Manelki.anthony@dot.ca.gov">Manelki.anthony@dot.ca.gov</a> <a href="mailto:Jeremie.ginelli@dot.ca.gov">Jeremie.ginelli@dot.ca.gov</a> <a href="mailto:Maria.cordonero@dot.ca.gov">Maria.cordonero@dot.ca.gov</a>	<i>Attorneys for California Dept. of Transportation</i>

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on February 25, 2022 at Sacramento, California.

*Alanna Hayman*  
ALANNA HAYMAN, Declarant

CM-110

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  R.Jeremie Ginelli (SBN 225596); Manelki Anthony (SBN 326205)  State of California, California Department of Transportation ("Caltrans")  111 Grand Avenue, Oakland, CA 94623-1325</p> <p>TELEPHONE NO.: (510) 433-9100 FAX NO. (Optional): (510) 433-9167  E-MAIL ADDRESS: manelki.anthony@dot.ca.gov  ATTORNEY FOR (Name): Defendant State of California</p>	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> <p><b>ELECTRONICALLY FILED</b>  Superior Court of California  County of Santa Barbara  Darrel E. Parker, Executive Officer  3/30/2022 1:40 PM  By: Madelyn Mercer, Deputy</p>
<p><b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA BARBARA</b>  STREET ADDRESS: 213-C East Cook Street  MAILING ADDRESS: 213-C East Cook Street  CITY AND ZIP CODE: Santa Maria 93454  BRANCH NAME: Cook Division</p>	
<p>PLAINTIFF/PETITIONER: Monica Araiza, et al.  DEFENDANT/RESPONDENT: State of California, et al.</p>	
<p style="text-align: center;"><b>CASE MANAGEMENT STATEMENT</b></p> <p>(Check one): <input checked="" type="checkbox"/> <b>UNLIMITED CASE</b> <input type="checkbox"/> <b>LIMITED CASE</b>  (Amount demanded exceeds \$25,000) (Amount demanded is \$25,000 or less)</p>	<p>CASE NUMBER:  21CV01049</p>
<p>A <b>CASE MANAGEMENT CONFERENCE</b> is scheduled as follows:  Date: April 20, 2022 Time: 08:30 am Dept.: 3 Div.: Civil Room:  Address of court (if different from the address above):</p>	
<p><input checked="" type="checkbox"/> <b>Notice of Intent to Appear by Telephone, by (name):</b> Manelki Anthony, Esq., R.Jeremie Ginelli, Esq.</p>	

**INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.**

1. **Party or parties** (answer one):
  - a. ☒ This statement is submitted by party (name): State of California, Caltrans
  - b. ☐ This statement is submitted **jointly** by parties (names):
2. **Complaint and cross-complaint** (to be answered by plaintiffs and cross-complainants only)
  - a. The complaint was filed on (date):
  - b. ☐ The cross-complaint, if any, was filed on (date):
3. **Service** (to be answered by plaintiffs and cross-complainants only)
  - a. ☐ All parties named in the complaint and cross-complaint have been served, have appeared, or have been dismissed.
  - b. ☐ The following parties named in the complaint or cross-complaint
    - (1) ☐ have not been served (specify names and explain why not):
    - (2) ☐ have been served but have not appeared and have not been dismissed (specify names):
    - (3) ☐ have had a default entered against them (specify names):
  - c. ☐ The following additional parties may be added (specify names, nature of involvement in case, and date by which they may be served):
4. **Description of case**
  - a. Type of case in ☒ complaint ☐ cross-complaint (Describe, including causes of action):  
Plaintiff alleges damages from an automobile accident. Plaintiff's three causes of action are Negligence, Wrongful Death & Dangerous Condition of Public Property

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PLAINTIFF/PETITIONER: Monica Araiza, et al. DEFENDANT/RESPONDENT: State of California, et al.	CASE NUMBER: 21CV01049
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4. b. Provide a brief statement of the case, including any damages. (If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)  
Plaintiffs allege damages resulting from an accident that occurred on February 14, 2020. Decedent Selena Araiza was a passenger in a vehicle that collided with another vehicle on southbound State Route 1, near Santa Rosa Road in Lompoc, California.

☐ (If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. **Jury or nonjury trial**

The party or parties request ☒ a jury trial ☐ a nonjury trial. (If more than one party, provide the name of each party requesting a jury trial):

6. **Trial date**

- a. ☐ The trial has been set for (date):  
b. ☒ No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint (if not, explain):

c. Dates on which parties or attorneys will not be available for trial (specify dates and explain reasons for unavailability):  
6/3/22- 6/17/22 (Prepaid Vacation); 7/1/22 (Prepaid Vacation); 8/24/22 -8/31/22 (prepaid vacation); 9/26/22 - 10/7/22 (Trial); 1/9/23-1/20/23 (Trial).

7. **Estimated length of trial**

The party or parties estimate that the trial will take (check one):

- a. ☒ days (specify number): 7-9  
b. ☐ hours (short causes) (specify):

8. **Trial representation (to be answered for each party)**

The party or parties will be represented at trial ☒ by the attorney or party listed in the caption ☐ by the following:

- a. Attorney:  
b. Firm:  
c. Address:  
d. Telephone number:  
e. E-mail address:  
f. Fax number:  
g. Party represented:

☐ Additional representation is described in Attachment 8.

9. **Preference**

☐ This case is entitled to preference (specify code section):

10. **Alternative dispute resolution (ADR)**

a. **ADR information package.** Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 of the California Rules of Court for information about the processes available through the court and community programs in this case.

(1) For parties represented by counsel: Counsel ☒ has ☐ has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.

(2) For self-represented parties: Party ☐ has ☐ has not reviewed the ADR information package identified in rule 3.221.

b. **Referral to judicial arbitration or civil action mediation** (if available).

(1) ☐ This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.

(2) ☐ Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.

(3) ☐ This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. (specify exemption):

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PLAINTIFF/PETITIONER: Monica Araiza, et al. DEFENDANT/RESPONDENT: State of California, et al.	CASE NUMBER: 21CV01049
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10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (check all that apply and provide the specified information):

	The party or parties completing this form <b>are willing</b> to participate in the following ADR processes (check all that apply):	If the party or parties completing this form in the case <b>have agreed</b> to participate in or have already completed an ADR process or processes, indicate the status of the processes (attach a copy of the parties' ADR stipulation):
(1) Mediation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for (date): <input type="checkbox"/> Agreed to complete mediation by (date): <input type="checkbox"/> Mediation completed on (date):
(2) Settlement conference	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for (date): <input type="checkbox"/> Agreed to complete settlement conference by (date): <input type="checkbox"/> Settlement conference completed on (date):
(3) Neutral evaluation	<input type="checkbox"/>	<input type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for (date): <input type="checkbox"/> Agreed to complete neutral evaluation by (date): <input type="checkbox"/> Neutral evaluation completed on (date):
(4) Nonbinding judicial arbitration	<input type="checkbox"/>	<input type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete judicial arbitration by (date): <input type="checkbox"/> Judicial arbitration completed on (date):
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete private arbitration by (date): <input type="checkbox"/> Private arbitration completed on (date):
(6) Other (specify):	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for (date): <input type="checkbox"/> Agreed to complete ADR session by (date): <input type="checkbox"/> ADR completed on (date):

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PLAINTIFF/PETITIONER: Monica Araiza, et al. DEFENDANT/RESPONDENT: State of California, et al.	CASE NUMBER: 21CV01049
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**11. Insurance**

- a. ☐ Insurance carrier, if any, for party filing this statement (*name*):
- b. Reservation of rights: ☐ Yes ☐ No
- c. ☐ Coverage issues will significantly affect resolution of this case (*explain*):

**12. Jurisdiction**

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

☐ Bankruptcy ☐ Other (*specify*):

Status:

**13. Related cases, consolidation, and coordination**

- a. ☐ There are companion, underlying, or related cases.
- (1) Name of case:
- (2) Name of court:
- (3) Case number:
- (4) Status:
- ☐ Additional cases are described in Attachment 13a.
- b. ☐ A motion to ☐ consolidate ☐ coordinate will be filed by (*name party*):

**14. Bifurcation**

☐ The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (*specify moving party, type of motion, and reasons*):

**15. Other motions**

- ☒ The party or parties expect to file the following motions before trial (*specify moving party, type of motion, and issues*):  
Potential Demurrer and Motion to Strike portions of the Third Amended Complaint, Motion for Judgment on Pleadings, Motion for Summary Judgment as applicable.

**16. Discovery**

- a. ☐ The party or parties have completed all discovery.
- b. ☒ The following discovery will be completed by the date specified (*describe all anticipated discovery*):

<u>Party</u>	<u>Description</u>	<u>Date</u>
Defendant Caltrans	Written Discovery	September, 2022
Defendant Caltrans	Depositions	30 days before trial
Defendant Caltrans	Document Subpoenas	Per Statutory Period
Defendant Caltrans	Expert Depositions	Per Code

- c. ☐ The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (*specify*):

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PLAINTIFF/PETITIONER: Monica Araiza, et al. DEFENDANT/RESPONDENT: State of California, et al.	CASE NUMBER: 21CV01049
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**17. Economic litigation**

- a. ☐ This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. ☐ This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed *(if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case)*:

**18. Other issues**

- ☒ The party or parties request that the following additional matters be considered or determined at the case management conference *(specify)*:  
Parties met and conferred regarding the deficiencies in the Third Amended Complaint. Plaintiff's counsel has agreed to amend certain portions. Parties' meet and confer efforts are continuing.

**19. Meet and confer**

- a. ☒ The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court *(if not, explain)*:
- b. ☐ After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following *(specify)*:

20. Total number of pages attached *(if any)*: \_\_\_\_\_

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: March 30, 2022

Manelki Anthony  
(TYPE OR PRINT NAME)

► Manelki Anthony  
(SIGNATURE OF PARTY OR ATTORNEY)

\_\_\_\_\_  
(TYPE OR PRINT NAME)

► \_\_\_\_\_  
(SIGNATURE OF PARTY OR ATTORNEY)

☐ Additional signatures are attached.



Case Name: Monica Araiza v. State of California, et al.  
Case No.: Santa Barbara County Superior Court [Santa Maria-Cook] Case No. 21CV01049

**PROOF OF SERVICE**

I, the undersigned, say: I am, and was at all times herein mentioned, employed in the City of Oakland, and County of Alameda, over the age of 18 years and not a party to the within action or proceedings; that my business address is 111 Grand Avenue, Suite 11-100, Oakland, California 94612; Mail: P.O. Box 24325, Oakland, CA 94623-1325; that on the date set forth below, I served the within:

**1. CASE MANAGEMENT STATEMENT**

on all interested parties in said action by:

(☒) (BY ELECTRONIC-MAIL) by attaching a copy of the document(s) in PDF format sent from [alanna.hayman@dot.ca.gov](mailto:alanna.hayman@dot.ca.gov) to the email addresses of the parties listed below, pursuant to Code of Civil Procedure section 1010.6, subd. (a) and (e), permitting electronic service of notices or documents that may be served by mail, express mail, overnight delivery, or facsimile transmission. No hard copies will follow.

COUNSEL OF RECORD	PARTY REPRESENTED
Isaac Toveg, Esq. Law Offices of Isaac Toveg 2600 W. Olive Ave., 5 <sup>th</sup> Floor Burbank, CA 91505 <a href="mailto:isaactoveg@aol.com">isaactoveg@aol.com</a>	<i>Attorney for Plaintiff, Monica Araiza</i>
With cc to: Manelki Anthony, Esq. Jeremie Ginelli, Esq. Maria Cordonero <a href="mailto:Manelki.anthony@dot.ca.gov">Manelki.anthony@dot.ca.gov</a> <a href="mailto:Jeremie.ginelli@dot.ca.gov">Jeremie.ginelli@dot.ca.gov</a> <a href="mailto:Maria.cordonero@dot.ca.gov">Maria.cordonero@dot.ca.gov</a>	<i>Attorneys for California Dept. of Transportation</i>

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on March 30, 2022 at Sacramento, California.

*Alanna Hayman*  
ALANNA HAYMAN, Declarant

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State, Bar number, and address): <b>Law offices of Isaac Toveg PLC</b> <b>2600 W Olive Ave, 5th Floor</b> <b>Burbank, CA 91505</b> TELEPHONE NO.: <b>818-333-5202</b> FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): <b>MONICA ARAIZA; ET AL.</b>	<b>FOR COURT USE ONLY</b> <b>ELECTRONICALLY FILED</b> <b>Superior Court of California</b> <b>County of Santa Barbara</b> <b>Darrel E. Parker, Executive Officer</b> <b>4/13/2022 1:28 PM</b> <b>By: Jazmine Killian, Deputy</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA BARBARA</b> STREET ADDRESS: <b>312-C East Cook Street</b> MAILING ADDRESS: <b>312-C East Cook Street</b> CITY AND ZIP CODE: <b>Santa Maria 93454</b> BRANCH NAME: <b>Santa Maria Courthouse, Cook Division</b>	
PLAINTIFF/PETITIONER: <b>MONICA ARAIZA; ET AL.</b>	CASE NUMBER: <b>21CV01049</b>
DEFENDANT/RESPONDENT: <b>THE STATE OF CALIFORNIA; ET AL.</b>	
<b>DECLARATION OF NON SERVICE</b>	Ref. No. or File No.: <b>REF-9831335</b>

I declare that I am and was on the dates herein mentioned, over the age of 18 years, not a party to nor interested in the above entitled action, and competent to be a witness therein.

I received the following documents for service:

**THIRD AMENDED SUMMONS; THIRD AMENDED COMPLAINT; AMENDMENT TO COMPLAINT; STATEMENT OF DAMAGES**

I attempted to serve **Federal Correctional Institution Lompoc**  
 at the address of **3600 Guard Road, Lompoc, CA 93436**

and was unable to effect service for the following reasons:

**4/4/2022 8:42 AM: I was unable to access the address due to impassable road.**  
**4/8/2022 2:29 PM: I spoke with an individual who indicated they were the employee. Service is not allowed at this facility. The documents need to be served at the attorney general's office.**

Fee for service: \$ 85.00

I am a registered California process server; my name, address, phone number, and county of registration and number are:

**Keith B Baichtal**  
**844 Zackery Ct, Santa Maria, CA 93455**  
**805-268-5701**  
**Santa Barbara County, ##286**

For: **ABC Legal Services, LLC**  
 Registration #: **6779**  
 County: **Los Angeles**

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.

Date: 04/08/2022

\_\_\_\_\_  
 Keith B Baichtal  
 (PRINTED NAME OF DECLARANT)

\_\_\_\_\_  
  
 (SIGNATURE OF DECLARANT)



SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA BARBARA

Dated and Entered:	04/20/2022	Time:	8:30 AM
Judicial Officer:	Timothy J Staffel		
Deputy Clerk:	Cynthia Barajas-Garcia	Dept:	SM3
Deputy Sheriff:	Steve Adam		
Court Reporter:	Susan Davison	Case No:	21CV01049

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**Monica Araiza et al vs The State of California et al**

Parties Present:

Anthony, Manelki	Attorney for Defendant State of CA Department of Transportation, via Zoom
Toveg, Isaac	Attorney for Plaintiff Monica Araiza, via Zoom

---

**NATURE OF PROCEEDINGS: *Case Management Conference***

Mr. Toveg presents his position regarding the addition of the Bureau of Prisons to the amended complaint.

Mr. Toveg represents that the parties have initiated the discovery process and indicates mediation may be scheduled.

Ms. Anthony requests the proposed fourth amended complaint be submitted prior to scheduling mediation. Mr. Toveg indicates that he anticipates he will present the fourth amended complaint within 60-days, while he waits to hear back from the Bureau of Prisons.

A discussion is held regarding a continuance.

**THE COURT MAKES THE FOLLOWING ORDERS:**

This matter is continued to 07/06/2022 at 8:30 a.m. in Department SM3.

Notice is waived.

DARREL E. PARKER, EXECUTIVE OFFICER

Minutes Prepared by:

Cynthia Barajas-Garcia, Deputy

<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA BARBARA</b> STREET ADDRESS: 312-C East Cook Street CITY AND ZIP CODE: Santa Maria CA 93454 BRANCH NAME: Cook	FOR COURT USE ONLY  <b>FILED</b> SUPERIOR COURT of CALIFORNIA COUNTY of SANTA BARBARA
CAPTION:  <b>Monica Araiza et al vs The State of California et al</b>	<b>MAY 02 2022</b>  Darrel E. Parker, Executive Officer BY <u>Victoria Cho</u> V. Winn, Deputy Clerk
<b>NOTICE OF RESETTING HEARING</b>	CASE NUMBER:  <b>21CV01049</b>

NOTICE IS HEREBY GIVEN THAT the **Case Management Conference** scheduled in the above-entitled matter has been rescheduled as follows:

Appearance by Zoom video conference is currently optional for most hearings, including Civil Case Management Conferences, unless the court has directed otherwise. Appearance by Zoom for Evidentiary Hearings and Trials require prior court authorization. Appearance by Zoom is not authorized for any proceedings in North County Unlawful Detainer cases without prior court authorization. If appearance by Zoom is not authorized for the above hearing, please plan to appear in-person. All persons entering the courthouse must go through weapons screening. Face coverings are required to be worn by all persons while on court premises.

For **authorized** appearances by Zoom, use the links provided to access the Remote Hearing Information flyer in English [https://www.sbcourts.org/gi/notices/Zoom Instructions.pdf](https://www.sbcourts.org/gi/notices/Zoom%20Instructions.pdf), and in Spanish [https://www.sbcourts.org/gi/notices/Zoom InstructionsSP.pdf](https://www.sbcourts.org/gi/notices/Zoom%20InstructionsSP.pdf). Or visit the to the court's website at [www.sbcourts.org](http://www.sbcourts.org) and click on Remote Appearance by Zoom. The moving party must provide the Remote Hearing Information to all other parties to the hearing not listed on the Clerk's Certificate of Service.

FROM: Date: 07/06/2022 at 8:30 AM  
Department: SM4

TO: **07/20/2022 at 8:30 AM**  
SM Dept 4  
312 E Cook St  
Santa Maria, CA 93454

Darrel E. Parker, Executive Officer

Dated: 5/2/2022 By V. Winn, Deputy

#### CLERK'S CERTIFICATE OF SERVICE

I certify that I am not a party to this cause, and that a true copy of this document was electronically served or mailed first class, postage prepaid in a sealed envelope addressed as shown, and that the electronic service or mailing of the foregoing and execution of this certificate occurred at (place) Santa Maria, California on (date): 05/02/2022

#### SEE ATTACHMENT

Darrel E. Parker, Executive Officer By V. Winn, Deputy

**ATTACHMENT**

**Mail Recipients:**

Manelki Anthony  
CA Dept of Transportation Legal Division  
PO Box 24325  
Oakland CA 94623-1325

R Jeremie Ginelli  
CA Dept of Transportation Legal Division  
PO Box 24325  
Oakland CA 94623-1325

Isaac Toveg  
2600 W Olive Ave 5th Floor  
Burbank CA 91505

**Electronic Recipients:**

Isaac Toveg, Esq. – [isaactoveg@aol.com](mailto:isaactoveg@aol.com)

Jeremie R. Ginelli, Esq. – [jeremie.ginelli@dot.ca.gov](mailto:jeremie.ginelli@dot.ca.gov)

Anthony Manelki, Esq. – [manelki.anthony@dot.ca.gov](mailto:manelki.anthony@dot.ca.gov)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State, Bar number, and address): <b>Law offices of Isaac Toveg PLC</b> <b>2600 W Olive Ave, 5th Floor</b> <b>Burbank, CA 91505</b> TELEPHONE NO.: <b>818-333-5202</b> FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): <b>MONICA ARAIZA; ET AL.</b>	FOR COURT USE ONLY <b>ELECTRONICALLY FILED</b> <b>Superior Court of California</b> <b>County of Santa Barbara</b> <b>Darrel E. Parker, Executive Officer</b> <b>5/16/2022 11:51 AM</b> <b>By: Jazmine Killian, Deputy</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA BARBARA</b> STREET ADDRESS: <b>312-C East Cook Street</b> MAILING ADDRESS: <b>312-C East Cook Street</b> CITY AND ZIP CODE: <b>Santa Maria 93454</b> BRANCH NAME: <b>Santa Maria Courthouse, Cook Division</b>	
PLAINTIFF/PETITIONER: <b>MONICA ARAIZA; ET AL.</b>	CASE NUMBER: <b>21CV01049</b>
DEFENDANT/RESPONDENT: <b>THE STATE OF CALIFORNIA; ET AL.</b>	
<b>DECLARATION OF NON SERVICE</b>	Ref. No. or File No.: <b>REF-9831335</b>

I declare that I am and was on the dates herein mentioned, over the age of 18 years, not a party to nor interested in the above entitled action, and competent to be a witness therein.

I received the following documents for service:

**THIRD AMENDED SUMMONS; THIRD AMENDED COMPLAINT; AMENDMENT TO COMPLAINT; STATEMENT OF DAMAGES**

I attempted to serve **Federal Correctional Institution Lompoc c/o legal department, Legal dept.**  
 at the address of **7338 Shoreline Dr., Stockton, CA 95219**

and was unable to effect service for the following reasons:

**5/10/2022 2:02 PM: I spoke with an individual who indicated they were the person authorized to accept.**  
**Katherine Carpenter said these documents need to be served in southern California. She didn't know the exact address to give me, because she had to meet me in the parking lot.**

Fee for service: **\$ 85.00**

I am a registered California process server; my name, address, phone number, and county of registration and number are:

**Tonya Gutierrez**  
**1016 galleon way, Sacramento, CA 95838**  
**916-889-2818**  
**Sacramento CA, #2018-063**

For: **ABC Legal Services, LLC**  
 Registration #: **6779**  
 County: **Los Angeles**

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.

Date: 05/12/2022

Tonya Gutierrez  
 (PRINTED NAME OF DECLARANT)

*Tonya Gutierrez*  
 (SIGNATURE OF DECLARANT)



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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Law Office of Isaac Toveg PLC, Isaac Toveg (SBN 269729) 2600 W Olive Ave, 5th floor, Burbank CA, 91505  TELEPHONE NO.: 8183335202 FAX NO. (Optional): E-MAIL ADDRESS: isaactoveg@aol.com ATTORNEY FOR (Name): Monica Araiza, et al		<b>FOR COURT USE ONLY</b>  ELECTRONICALLY FILED Superior Court of California County of Santa Barbara Darrel E. Parker, Executive Officer 4/11/2022 8:00 AM By: Jazmine Killian, Deputy
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Barbara</b> STREET ADDRESS: 213-C East Cook Street MAILING ADDRESS: 213-C East Cook Street CITY AND ZIP CODE: Santa Maria 93454 BRANCH NAME: Cook Division		
PLAINTIFF/PETITIONER: Monica Araiza, and et al DEFENDANT/RESPONDENT: State of California, and et al		
<b>CASE MANAGEMENT STATEMENT</b> (Check one): <input checked="" type="checkbox"/> <b>UNLIMITED CASE</b> (Amount demanded exceeds \$25,000) <input type="checkbox"/> <b>LIMITED CASE</b> (Amount demanded is \$25,000 or less)		CASE NUMBER: 21CV01049
A <b>CASE MANAGEMENT CONFERENCE</b> is scheduled as follows: Date: April 20, 2022 Time: 08:30 AM Dept.: 3 Div.: Civil Room: Address of court (if different from the address above): <input checked="" type="checkbox"/> <b>Notice of Intent to Appear by Telephone, by (name):</b> Law Office of Isaac Toveg, Isaac Toveg		

**INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.**

- Party or parties (answer one):**
  - ☒ This statement is submitted by party (name): Law Office of Isaac Toveg
  - ☐ This statement is submitted jointly by parties (names):
- Complaint and cross-complaint (to be answered by plaintiffs and cross-complainants only)**
  - The complaint was filed on (date): 03/12/2021
  - ☐ The cross-complaint, if any, was filed on (date):
- Service (to be answered by plaintiffs and cross-complainants only)**
  - ☒ All parties named in the complaint and cross-complaint have been served, have appeared, or have been dismissed.
  - ☐ The following parties named in the complaint or cross-complaint
    - ☐ have not been served (specify names and explain why not):
    - ☐ have been served but have not appeared and have not been dismissed (specify names):
    - ☐ have had a default entered against them (specify names):
  - ☐ The following additional parties may be added (specify names, nature of involvement in case, and date by which they may be served):
- Description of case**
  - Type of case in ☒ complaint ☐ cross-complaint (Describe, including causes of action):  
 This is a fatal automobile collision where there were dangerous condition of public property. Plaintiff alleges three causes of actions, mainly one, (1) dangerous condition of public property, (2) negligence, (3) wrongful death.

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PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
--	--------------

4. b. Provide a brief statement of the case, including any damages. *(If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)*  
Plaintiff alleges both general and special damages. The general damages include but are not limited to, grief, inconvenience, depression, loss of support, emotional distress.

☐ *(If more space is needed, check this box and attach a page designated as Attachment 4b.)*

5. **Jury or nonjury trial**

The party or parties request ☒ a jury trial ☐ a nonjury trial. *(If more than one party, provide the name of each party requesting a jury trial):*

6. **Trial date**

- a. ☐ The trial has been set for *(date)*:  
b. ☒ No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint *(if not, explain)*:

c. Dates on which parties or attorneys will not be available for trial *(specify dates and explain reasons for unavailability)*:  
July 5th-13th, 2022 (trial), August 22-Sept. 4; November 3-15, 2022, December 8-15, 2022

7. **Estimated length of trial**

The party or parties estimate that the trial will take *(check one)*:

- a. ☒ days *(specify number)*: 7-9  
b. ☐ hours (short causes) *(specify)*:

8. **Trial representation (to be answered for each party)**

The party or parties will be represented at trial ☒ by the attorney or party listed in the caption ☐ by the following:

- a. Attorney:  
b. Firm:  
c. Address:

d. Telephone number:

f. Fax number:

e. E-mail address:

g. Party represented:

☐ Additional representation is described in Attachment 8.

9. **Preference**

☐ This case is entitled to preference *(specify code section)*:

10. **Alternative dispute resolution (ADR)**

- a. **ADR information package.** Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 of the California Rules of Court for information about the processes available through the court and community programs in this case.

(1) For parties represented by counsel: Counsel ☒ has ☐ has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.

(2) For self-represented parties: Party ☐ has ☐ has not reviewed the ADR information package identified in rule 3.221.

- b. **Referral to judicial arbitration or civil action mediation (if available).**

(1) ☐ This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.

(2) ☐ Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.

(3) ☐ This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. *(specify exemption)*:



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10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (check all that apply and provide the specified information):

	The party or parties completing this form <b>are willing</b> to participate in the following ADR processes (check all that apply):	If the party or parties completing this form in the case <b>have agreed</b> to participate in or have already completed an ADR process or processes, indicate the status of the processes (attach a copy of the parties' ADR stipulation):
(1) Mediation	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for (date): <input type="checkbox"/> Agreed to complete mediation by (date): <input type="checkbox"/> Mediation completed on (date):
(2) Settlement conference	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for (date): <input type="checkbox"/> Agreed to complete settlement conference by (date): <input type="checkbox"/> Settlement conference completed on (date):
(3) Neutral evaluation	<input type="checkbox"/>	<input type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for (date): <input type="checkbox"/> Agreed to complete neutral evaluation by (date): <input type="checkbox"/> Neutral evaluation completed on (date):
(4) Nonbinding judicial arbitration	<input type="checkbox"/>	<input type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete judicial arbitration by (date): <input type="checkbox"/> Judicial arbitration completed on (date):
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for (date): <input type="checkbox"/> Agreed to complete private arbitration by (date): <input type="checkbox"/> Private arbitration completed on (date):
(6) Other (specify):	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for (date): <input type="checkbox"/> Agreed to complete ADR session by (date): <input type="checkbox"/> ADR completed on (date):

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**11. Insurance**

- a. ☐ Insurance carrier, if any, for party filing this statement *(name)*:  
b. Reservation of rights: ☐ Yes ☐ No  
c. ☐ Coverage issues will significantly affect resolution of this case *(explain)*:

**12. Jurisdiction**

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

☐ Bankruptcy ☐ Other *(specify)*:

Status:

**13. Related cases, consolidation, and coordination**

- a. ☐ There are companion, underlying, or related cases.  
(1) Name of case:  
(2) Name of court:  
(3) Case number:  
(4) Status:  
☐ Additional cases are described in Attachment 13a.  
b. ☐ A motion to ☐ consolidate ☐ coordinate will be filed by *(name party)*:

**14. Bifurcation**

- ☐ The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action *(specify moving party, type of motion, and reasons)*:

**15. Other motions**

- ☐ The party or parties expect to file the following motions before trial *(specify moving party, type of motion, and issues)*:

**16. Discovery**

- a. ☐ The party or parties have completed all discovery.  
b. ☒ The following discovery will be completed by the date specified *(describe all anticipated discovery)*:

Party	Description	Date
Plaintiff Araiza	Written Discovery	December, 2022
Plaintiff Araiza	Depositions	30 days before trial
Plaintiff Araiza	Document Subpoenas	Per Statutory Period
Plaintiff Araiza	Expert Depositions	Per Code

- c. ☐ The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated *(specify)*:

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**17. Economic litigation**

- a. ☐ This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. ☐ This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case):

**18. Other issues**

- ☐ The party or parties request that the following additional matters be considered or determined at the case management conference (specify):

**19. Meet and confer**

- a. ☒ The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (if not, explain):
- b. ☐ After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (specify):

20. Total number of pages attached (if any): \_\_\_\_\_

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: 03/31/2022

Isaac Toveg /S/ ISAAC TOVEG  
(TYPE OR PRINT NAME)

▶   
(SIGNATURE OF PARTY OR ATTORNEY)

\_\_\_\_\_  
(TYPE OR PRINT NAME)

▶ \_\_\_\_\_  
(SIGNATURE OF PARTY OR ATTORNEY)

☐ Additional signatures are attached.